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99TH CONGRESS *1st Session*	SENATE	REPORT 99-166

FEDERAL RETIREMENT REFORM ACT OF 1985

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 1527

To amend title 5, United States Code, to establish a new retirement and disability plan for Federal employees, postal employees, and Members of Congress, and for other purposes

OCTOBER 30 (legislative day, OCTOBER 28), 1985.—Ordered to be printed

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OCTOBER 30 (legislative day, OCTOBER 28), 1985.—Ordered to be printed

Mr. ROTH, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany S. 1527]

The Committee on Governmental Affairs, to which was referred the bill (S. 1527) to amend title 5, United States Code, to establish a new retirement and disability plan for Federal employees, postal employees, and Members of Congress, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

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I. BACKGROUND AND HISTORY

The Civil Service Retirement System (CSRS) was established in 1920 as a way to retire superannuated employees from the civil service. It was one of the very early retirement programs in this country. The Social Security system was established in 1935 to provide a foundation of economic security for the elderly retiring from commerce and industry. At the time of enactment of the Social Security program, consideration was given and rejected to include Federal workers under the program. Until 1983, coverage of Feder-

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al employees under Social Security was often proposed and rejected for a variety of reasons.

In the fall of 1981, President Reagan established the National Commission on Social Security Reform to review the financial health of the Social Security system and to recommend ways to shore up its short and long term financial shortfalls. In January 1983, the Commission recommended, among other things, covering newly hired Federal employees under the Social Security program. Enactment of that proposal followed with the passage of the Social Security Amendments of 1983.

The legislation actually provided that Federal employees newly hired on or after January 1, 1984, or rehired on or after that date with separation from Government service for more than 365 days, would be covered by Social Security for such new service. The legislation also covered all current Members of Congress and political appointees in the executive branch at the equivalent of a GS-16 level or higher.

Social Security coverage of Federal employees forced a congressional decision with regard to additional retirement coverage for such employees. The primary question was: Should such employees also be covered by the CSRS with its redundant coverage and contribution amounts or should these employees have a new Federal retirement program designed to coordinate with Social Security?

In the summer of 1983 at a hearing before the Senate Subcommittee on Civil Service, Post Office, and General Services, the General Accounting Office released a report and testified that dual coverage under both Social Security and CSRS would clearly create recruitment problems for the Federal Government without some relief from the dual contributions required by both programs. Later that year a Senate amendment was added to an unrelated House bill establishing a 2-year interim arrangement (Federal Employees Temporary Adjustment Act of 1983, Public Law 98-168) which effectively reduced the employee contribution amounts to CSRS. This arrangement was to expire after December 31, 1985, unless a new plan was established, thereby requiring all employees covered by Social Security to begin paying the full CSRS contribution. In addition, for such employees to receive CSRS contribution would have to be repaid.

This interim plan was proffered and adopted to afford Congress sufficient time to design a supplemental Federal retirement program coordinated with Social Security. Thus, Congress effectively decided at that time to begin the design of a new Federal retirement program to be coordinated with Social Security.

Social Security and typical employer retirement plans have very different benefit provisions and very different objectives. Social Security is, in part, a social insurance program redistributing wealth from high to low income workers. In contrast, an employer retirement program is a staff retirement plan which normally attempts to replace a certain percentage of an employee's preretirement earnings at all income levels. Social Security provides a floor of income for the retired, the disabled and for survivors of workers. Retirement programs, in a sense, defer wages. Coordinating the two into a new Federal retirement program, while readily feasible,

calls for the most significant changes in Federal retirement practices since the establishment of CSRS.

In December 1981 the Congressional Research Service issued a report, "Restructuring the Civil Service Retirement System: Analysis of Options to Control Costs and Maintain Retirement Income Security," outlining four options to coordinate a new Federal retirement plan with Social Security. Based on that report, legislation was introduced by Senator Stevens in the fall of 1982, S. 2905, establishing a 3-tier pension plan with Social Security serving as a base. The Senate took no further action until the establishment of the interim plan in late 1983.

During 1984 the Senate Subcommittee on Civil Service sponsored five Federal pension forums, which brought experts from the non-Federal sector to discuss the various types of plans utilized by private industry and State and local governments. The published discussions of these forums covered topics such as Social Security integration, pension funding, investments, and various retirement plan components. In the meantime, at the request of the Senate subcommittee, the General Accounting Office issued two companion reports in 1984. The first, "Features of Nonfederal Retirement Programs," June 26, 1984, detailed typical retirement practices found in the non-Federal sector such as normal retirement age, cost of living adjustments, etc., while the second, "Benefit Levels of Nonfederal Retirement Programs," February 26, 1985, described the range of benefits expected to be payable from non-Federal programs at retirement using a constant set of economic and demographic assumptions.

On July 30, 1985, S. 1527 was introduced by Senators Stevens and Roth. The committee held 2½ days of hearings on the legislation on September 10–12, 1985. On October 2, 1985, the committee marked up the bill. At that time a bipartisan substitute for S. 1527 was offered by Senators Roth, Stevens, Eagleton, and Gore. It was adopted unanimously by the committee.

Few issues before the Governmental Affairs Committee have been subject to such extensive study and discussions as the new retirement plan. The committee has utilized numerous Government and private sources to develop the plan. Large bodies of information exist substantiating the committee's work, such as Congressional Research Service reports, General Accounting Office reports and the prints of the five forums.

STATEMENT

An employer's retirement plan is not designed in a vacuum. Many factors influence the eventual structure and provisions of a plan. Most importantly, an employer must first decide the type of workforce desired and then design a retirement plan that helps influence the desired workforce characteristics. The goal of a retirement plan is to maintain one's preretirement standard of living.

In the 1920's the Federal Government was considerably smaller and far less involved in the daily lives of individual citizens than now. The composite of the Federal workforce, today, mirrors that of the Nation's. Electricians, engineers, teachers, mechanics, law-

yers, doctors, and secretaries are just a few of the hundreds of occupations existing in the Government.

During the past 65 years the dynamism of this Nation has forced the Federal Government to take a more active role in society than envisioned in 1920. From rejection of the League of Nations to the world's most philanthropic and influential Nation, from a racially segregated society to a largely integrated one, from a stationary society to a mobile one, from a largely uneducated society to a highly educated one, from a primarily agrarian economy to a highly industrialized and technological one, the Federal Government has assumed an active role in all of these developments. Such a role requires a highly competent and dynamic workforce. As our society becomes increasingly more complex, the Federal Government must have the ability to attract and retain highly qualified individuals in all occupations who can meet the changing needs of our Government and society.

An attractive, flexible retirement plan can assist the government in meeting these objectives. The Committee concludes that a Federal retirement plan should continue to offer incentives to build a career workforce. Any employer must have a cadre of employees to provide stability, continuity and the institutional memory to run an organization effectively, particularly one as large and diverse as the Federal Government.

The committee also finds that increased mobility of Federal employees in and out of Government, particularly during midcareer, is desirable. The Government's workforce needs institutional expertise devolving from career workers as well as fresh ideas and methods that originate from employees having extensive experience in private industry. Currently, Federal recruitment from private sector management levels is rare, so that Federal managers are almost totally promoted from within. The committee believes that such promotion arrangements are to be encouraged, but not to the exclusion of hiring those from the outside. The committee feels that a Federal retirement plan should be attractive to assist in recruiting midcareer employees.

The committee also finds that the Government would be best served by retaining the employees who want to work for the Government, while permitting those who want to leave the ability to do so. Currently, the CSRS locks employees into a system that is generous but inflexible. Many of these employees would prefer to work elsewhere but cannot afford to relinquish their rights to good retirement benefits. This results in the Government's retaining some demoralized and inefficient employees. Greater portability of benefits abates the significance of this problem.

The committee finds that employee financial needs vary during their work career, as well as during retirement. Because employees usually are the best judges of their own needs, private industry often designs employee compensation programs around the concept of employee choice. In addition, a certain degree of flexibility with respect to the amount of disposable income an employee can set aside for retirement gives employees greater involvement in their careers and in decisions affecting their ultimate retirement benefits. The committee also believes employees ought to share directly

in retirement by encouraging greater savings by employees for retirement.

Finally, for an enterprise to survive it must keep its costs under control. Compensation is a major cost for any organization, such as the Government, and retirement can account for 15–25 percent of payroll. Related to cost is how a retirement plan is funded. Retirement costs, unlike other costs, do not necessarily surface until many years after the establishment of a plan. Federal law, however, requires private employers to prefund their plans to a certain extent to ensure the availability of assets to pay for benefits when they come due. The committee finds that the cost of the Federal Government plan should be on a par with corporate plans. Additionally, the committee believes that the Government should prefund its plan to avoid the revelation of startling costs at a later period.

S. 1527 as amended meets all of the objectives that the committee finds necessary in designing a new Federal retirement package. Using a computer model developed by the Congressional Research Service to provide a cost and benefit analysis of a new Federal retirement plan, the committee concludes that the benefits that will accrue under S. 1527 will encourage career employment with the Federal Government. In fact, in many cases, career Federal employees will receive greater benefits than under CSRS if they participate in the thrift plan.

In addition, the portable nature of Social Security coverage coupled with a highly portable thrift plan component of this retirement package should make Federal employment attractive to private sector employees in midcareer. Such portability also will clearly loosen the restraints on the exodus of dissatisfied Federal employees.

S. 1527 provides a unique benefit to employees in that they will be given a choice between two different retirement plans. Both are three-tiered plans. The design of one is more weighted to the thrift plan, while the other is more weighted to the defined benefit plan. This gives new entrants maximum choice with regard to their futures.

The thrift plan component of S. 1527 provides employees significant flexibility with respect to their level of contributions and how they want those contributions invested. It also encourages Federal employees to save toward their own retirement.

Finally, the cost and benefits of S. 1527 are comparable to those offered by most large private sector companies, thus enabling the Government to compete with private industry for talent by providing attractive benefits while holding down the costs to a reasonable level.

MAJOR PROVISIONS IN S. 1527

Establishment of chapter 84

The Federal Retirement Reform Act of 1985 represents a dramatic new development in Federal retirement programs. The Federal Retirement System (FRS) established by S. 1527 sets up a complete retirement program to coordinate with Social Security. It captures some of the best features of pension plans frequently used by pri-

vate industry to supplement Social Security. The three tiers of FRS—Social Security, defined benefit, and the defined contribution or thrift plan—are combined to offer a sound retirement program which provides considerable career flexibility and involvement in financial decisionmaking for Federal employees. FRS is a fully funded and financially sound retirement program at a reasonable cost to the Government. FRS could likely become a prototype retirement plan for others.

Although there are common elements between the FRS and the existing Civil Service Retirement System (CSRS), the two will generally function as separate retirement programs. That is, employees now covered by the CSRS retain the CSRS benefits without change unless they personally elect to enter the new system. The Civil Service Retirement and Disability Fund of the CSRS, a defined benefit plan, will also be the fund used for the defined benefit portion of the 3-tiered FRS. Other than this linkage, the two systems are quite different in regard to the employees covered, retirement eligibility requirements, benefits, and basic design. Rather than amending Chapter 83 of Title 5, United States Code (U.S.C.), an administratively burdensome task, S. 1527 establishes a new Chapter 84 in 5 U.S.C. The committee intends for FRS to be the retirement plan design of the future. In addition to the administrative concerns, the committee believes establishing Chapter 84 clearly sets FRS up as a separate system.

Many of the definitions in FRS are the same or similar to those now used in the current system, although several new or revised ones have been added. One significant change is the definition of "average pay". Average pay under FRS means the highest average rate of basic pay in effect over any 5 consecutive years of creditable service as opposed to the "high 3" years of the CSRS. This "high 5" definition more closely conforms to prevailing private industry practice and was one of many features of private sector retirement programs adopted in S. 1527. This serves to reduce the overall cost of the pension plan.

The definition of "basic pay" is broadened to include the pay rate established by law regardless of appropriation limits on the authority to pay. In cases where the Congress through the appropriation process sets a pay cup or limits employee pay to a level less than the statutory pay rate, the average pay for an employee would be computed using the statutory pay rate rather than the actual salary. Therefore, an individual's annuity and amount available for the thrift plan would reflect the pay level to which an employee was actually entitled. The committee believes an individual should not be doubly penalized by capping wages during the working years and using the capped wages for computing the annuity in retirement.

The definitions of "firefighter" and "law enforcement officer" are made more specific to include only positions with duties requiring young and physically able employees who serve at least 10 years in those positions or move from those positions after 10 years of service into managerial positions. Application of these definitions will exclude other positions associated with firefighting and/or law enforcement which are not necessarily physically demanding. Employees meeting these definitions are entitled to earlier re-

tirement than others, i.e., age 50 and 20 years of service, or 25 years of service at any age, and to annuity supplements beginning at retirement until age 62 which are equivalent to the value of Social Security benefits payable at age 62. These provisions of the retirement program are costly. The committee intended to restrict application to employees in these special classes who are faced with earlier retirement because of the physical requirements of their jobs.

Coverage

The committee reviewed the issue of who, in addition to Federal workers covered by the Social Security Amendments of 1983, should be covered by the FRS. For instance, a number of Federal employee groups, such as those employed by the Tennessee Valley Authority, nonappropriated fund instrumentalities, and farm credit districts, have for many years been covered by Social Security and their own Federal retirement system. In addition, the Foreign Service, the Central Intelligence Agency, and the Federal Reserve have retirement systems separate from CSRS.

Other groups such as the District of Columbia, the U.S. Park Police, the U.S. Secret Service, Gallaudet College, and county committees are, or have at one time been, included as Federal employees for purposes of the CSRS. Members of Congress and Congressional employees were covered by the CSRS only if they elected such coverage.

The committee finds that, to the extent possible, Federal employees should be covered by the same retirement system. Major disruptions to longstanding retirement arrangements are not considered appropriate at this time, however. Therefore, other Federal retirement systems which have Social Security as a base are not affected by this legislation. The FRS will apply to employees of Gallaudet College and the county committees. District of Columbia employees, who are not covered by Social Security, will not be included in the FRS. Further, since the CSRS is now essentially a closed retirement system, new District of Columbia employees will be excluded from it.

The committee also finds that Members of Congress and congressional staffs should be covered by the FRS in the same way as all other Federal employees. Further, the committee believes that the U.S. Park Police and the U.S. Secret Service, now included in the District of Columbia retirement system for municipal police and firemen, should be covered by the FRS. Permitting certain groups of Federal employees to participate in the District retirement system creates inequities between these employees and other Federal personnel.

The Foreign Service, the Central Intelligence Agency, and the Federal Reserve retirement systems are not affected by this bill. However, the committee expects to work with their respective oversight committees to assure that system modifications necessary to recognize Social Security coverage of new employees in one of these retirement systems are consistent with the FRS.

The committee has determined that individuals covered by the FRS who are also credited with service under the CSRS should be treated the same way when at all possible. Three situations when

this could occur are: Rehire after a break in service of more than one year, transfer from the CSRS, and reemployment of an annuitant under a Government retirement system other than the FRS.

In general, the CSRS rules will continue to apply to service under the CSRS. For example, a rehire or transfer who had 10 years of service under the CSRS and then worked 20 years under FRS may elect to retire at age 55. Since both periods are treated as a single total for eligibility purposes, a full 30 years of service would be recognized. The reduction for early retirement under the FRS, then, would be 2 percent rather than 5 percent. In determining the amount of benefit payable, however, the 10 years under CSRS would be computed under the CSRS benefit formula and added to the amount computed under the FRS formula for the 20 years under that system. The same general principle applies to shorter periods of service, too. For example, a combination of 3 years under the CSRS and 7 years under the FRS would qualify the employee to apply for an annuity under the FRS at 55. The 3 years of service under the CSRS, even though insufficient by itself to earn a CSRS benefit, would nevertheless use the CSRS benefit computation rules. However, payment for the CSRS portion of the benefit would be delayed until age 62, since service of 10 years would not result in payment from CSRS until that age.

A reemployed annuitant from a Government retirement system other than the FRS will have his or her annuity treated in whatever manner is prescribed by the rules of that retirement system during the period of reemployment. For example, a discontinued service annuity will terminate and restart after employment ceases, while an optional retirement annuity will continue and pay will be reduced to reflect the amount of the annuity received. A person whose annuity continues is not subject to Social Security, so any post-retirement service is treated under the rules of chapter 83. A person whose annuity stops, however, is subject to Social Security and the FRS. In both cases, average pay may be increased to reflect higher earnings during service under the FRS.

A rehire who withdrew his or her contributions from the CSRS must redeposit the money in order to receive credit for the service under the CSRS benefit formula.

Two options

S. 1527, as amended, incorporates a unique feature in retirement planning. Because of the size and diversity of the Federal workforce, the committee finds that offering more than one retirement plan to employees will make the plan attractive to a wider range of employees. One of the attractions of the Federal Employee Health Benefits Program is the variety of choices in health coverage. Similarly, the committee believes providing a limited choice of two retirement plans, equivalent in cost, but different, will be very attractive to potential employees of the Government.

Exployees will choose within 60 days after they begin employment the retirement plan in which they wish to participate. The election is irrevocable for life.

In option A the basic annuity is fully paid for by the Government and provides an annual accrual rate of 0.9 percent per year of service for the first 15 years of service and 1.1 percent for the

remaining years, multiplied by the employee's high-5 average salary. Unreduced benefits are available at age 62. Benefits are also available at age 55 with 30 years of service with a 2-percent reduction for each year under 62. An employee's defined benefit is adjusted for inflation after retirement beginning at age 62, with the annual adjustment equal to the rate of increase in the Consumer Price Index (CPI) minus two points from age 62 to age 67 and 100 percent on the CPI rate at age 67 and above.

Finally, option A includes a thrift plan in which the Government will match dollar for dollar the first 5 percent of an employee's salary.

Option B requires employees to contribute to the defined benefit plan the difference between the normal CSRS contribution and the OASDI tax. This means that employees contribute 7 percent on any salary in excess of the Social Security wage base, while contributing only a nominal amount on salary to the defined benefit plan up to the wage base (1.3 percent in 1987, 0.94 percent in 1988–89 and 0.8 percent after 1989). The march on the thrift plan is different from option 1 in that the first 1 percent of salary is matched dollar for dollar, percentage points 2 and 3 are matched at 50¢ on a dollar, and percentage points 4, 5, and 6 are matched at 25¢ on a dollar.

In turn an employee can retire at age 55 with 30 years of service with unreduced benefits from the defined benefit plan. Survivor and disability benefits are somewhat improved over option A. Finally, post-retirement inflation protection on the defined benefit plan is CPI minus two points for retirement under agree 62 and full CPI at age 62 and above.

In essence, option A contains more flexibility and portability through a richer thrift plan. Option B contains more security with a richer and infation-protected defined benefit plan.

Retirement eligibility under basic plan

S. 1527 makes some significant changes from CSRS in the age and service requirements for retirement eligibility. These changes will provide a degree of career flexibility to Federal workers not currently available in the CSRS. Under CSRS, an employee may retire as early as 55 years of age with 30 years of service and receive an unreduced annuity. Full retirement at 55 is a costly provision of the CSRS and a practice rarely found in comparable private sector pension plans. What is more commonly found in private industry is a retirement age of 62 for full benefits, with options to retire at 55 with a reduced annuity to compensate for the longer payment period.

The committee chose to follow the private industry pattern by raising the age requirement for retirement with full benefits and adding alternatives for early retirement with appropriate annuity reductions, unless the employee chose the second option, in which case the employee's mandatory contribution pays for the early retirement benefit. S. 1527 provides for full retirement at age 62 with 5 years of service. In addition to being the most common age for retirement in the private sector, 62 is also the age at which reduced Social Security benefits are payable. Whend the majority of the persons covered by the FRS retire, the age at which unreduced

Social Security benefits are payable will have risen to 67. S. 1527 allows for retirement at age 55 with 30 years of service, as in CSRS, but with a benefit reduction of 2 percent for each year under 62 unless Option B was chosen. The legislation also permits early retirement at age 55 with 10 years' service with a reduction of 5 percent for each year under 62.

Special classes—law enforcement officers, firefighters, and air traffic controllers—may retire with unreduced annuities at age 50 with 20 years of service or at any age with 25 years of service. National guard technicians may do so at age 55 with 30 years.

S. 1527 has tightened the definitions of law enforcement officers and firefighters over the provisions of CSRS. The committee recognizes the need for an earlier retirement age because of physically demanding occupations and has set that age at 50 for unreduced benefits. But the committee believes this benefit should be reserved to those positions which require youthful employees.

The pension plan presented in S. 1527 offers the greatest benefit to the full career worker. However, unlike the current CSRS which more or less "locks in" Federal employees and penalizes those who leave prior to retirement, S. 1527 offers attractive opportunities to other workers for short, middle-length, interrupted or second careers, whatever may fit their individual situations. Employees become vested in the basic pension plan after 5 years and retain the right to a deferred pension payable at age 62 or a deferred reduced pension at 55 with 10 years service.

Benefits under basic plan

Computation of annunity

The basic annuity amount is computed by multiplying the accrual rate in each option by years of service by the average pay (high 5). Accrual rates have a direct bearing on benefit amounts—the higher the accrual rate the higher the benefit. They vary considerably among various pension plans depending on whether or not the plan is an "add-on" or "integrated" with Social Security benefits. They may also vary to achieve desired workforce characteristics—higher accrual rates during early years of employment favor short career employment, while higher rates during later years of employment encourage longer careers for employees. The current CSRS falls into this second category.

The committee believes the CSRS practice of backloading the benefit, in other words, giving greater weight to later years of employment, should be continued to reward full career employment. Thus, in each option a varied accrual rate is provided.

The basic pension plan in S. 1527 is "added-on" rather than "integrated" with Social Security. This preserves the "tilt" in Social Security benefits by which lower paid employees get proportionately more of their preretirement earnings than higher income employees. The committee designed the plan to protect lower income employees from, in essence, having to participate in the thrift plan to ensure a reasonable retirement benefit. Obviously, they may participate if they wish. It is expected that employees at the higher income levels will participate in the thrift plan to a greater degree than lower-paid employees. Therefore, the benefits higher paid em-

ployees get from the thrift plan, when coupled with Social Security and the basic pension plan benefits, will alter the tilt. This is a departure from typical private practice which deliberately tilts the pension away from the employees with lower incomes to flatten the tilt in Social Security benefits.

S. 1527 continues the policy under Chapter 83 of crediting days of unused sick leave in computing an annuity. However, it changes the current CSRS policy for computing the annuity of employees who have worked part-time. Under the CSRS the annuity is computed by multiplying the accrual rate by the "high 3" average pay by years of service. Since the years of service count the same whether through full-time employment or part-time employment, the high-3 earnings are the key in determining the annuity amount. This policy makes it financially impractical for employees to work part-time toward the end of their careers. It essentially prohibits employees from phasing into retirement, an option which may be attractive to the employee and the Government. On the other hand, under CSRS an employee could work full-time only for the final 3 years of employment and achieve the same annuity as an employee with an identical "high 3" who has worked full-time for an entire career. This could be costly depending on the frequency.

S. 1527 changes this policy by crediting part-time employment on a proportional basis but using the annual rate of basic pay payable for full-time service. The committee believes this provision is more fair to the employee and the employer and may reduce costs over the long run.

Reductions for survivor annuities

S. 1527 provides for a 10 percent reduction in an annuity if the employee elects at retirement to provide for a survivor annuity. Under the current CSRS, an employee who selects a joint and survivor option is subject to a reduced pension. However, the pension is reduced by less than 10 percent and is, therefore, subsidized to a greater extent by the Government. A 10-percent reduction still subsidizes the survivor benefit but to a lesser extent than CSRS.

Under S. 1527, the reduction in the annuity to provide for survivor benefits would change to reflect any change in circumstances for entitlement to an annuity because of a change in marital status, an election relating to a former spouse or except under Option A, the death of a spouse. In the case of an annuitant whose pension has been reduced to provide for joint and survivor benefits, the pension returns to the unreduced amount if the spouse dies first only in option B. Option A maintains the reduced benefit for the remainder of the annuitant's life.

Cost-of-living adjustments

S. 1527 provides for different annual cost-of-living adjustments (COLAs) to be made in the basic pension plan depending upon the option chosen. In option A no COLA is provided for retirees between ages 55 and 62; a COLA of CPI minus two is provided for retirees aged 63 through 66 and a full COLA is provided for those beginning at age 67. Clearly, it is less than the full CPI protection provided in the current system. This significant change was made

for several reasons. Full COLAs are one of the two costliest features of the current CSRS. In private industry, the common practice is to make cost-of-living adjustments on an ad hoc rather than annual basis. In addition, the adjustments are typically less than the full increase in CPI, usually up to one-half.

In designing this option, the committee chose the automatic approach as more certain for retirees but reduced the full CPI adjustment for younger retirees. Social Security benefits are fully indexed by the CPI. The committee believes that the reduced COLAs provided for younger retirees are justified in that these retirees can still supplement their income. As one gets older the need for full inflation protection on a fixed income increases.

For individuals selecting option B, full COLAs are provided for all benefits except for the retirement benefits of individuals between the ages of 55 and 62. These "early retirees" receive COLAs equal to CPI minus 2. This policy contrasts with the current system in which full COLAs are provided for retirees regardless of whether or not they retire before 62.

Benefit supplement for special classes

Law enforcement officers, firefighters, and air traffic controllers may retire with unreduced annuities at age 50 with 20 years of service or at any age after 25 years of service. Although eligible to receive unreduced benefits from the defined benefit plan at 50 or before, these classes are not eligible for Social Security benefits until age 62. Therefore, S. 1527 provides for an annuity supplement which is approximately equal to the Social Security benefit payable at age 62. This allows individuals in these special classes who retire with unreduced annuities at 50, or even earlier to receive total benefits from retirement to age 62 which are equivalent to the benefits payable to annuitants retiring at age 62 from both Social Security and the basic pension.

Methods of payment

S. 1527 provides for several methods of receiving pensions. In addition to the standard method of providing for a monthly annuity to the annuitant for life, S. 1527 offers an option of a joint-and-survivor form. Under the joint-and-survivor method, a joint pension is received in a reduced amount during the years both the annuitant and spouse or other designated person are living. Upon the death of the annuitant, the annuity to the survivor would be reduced to 50 percent and continued to the survivor for life. In the case of an individual who is married on the date of application for the annuity, a joint-and-survivor method must be selected unless jointly waived.

S. 1527 also offers a Social Security level benefit option for those who retire before age 62 when Social Security benefits are payable. This increases the basic annuity payment between the ages of 55 and 62 and reduces the payments beginning at 62 so that the total amount each month is approximately equal before and after Social Security begins at 62. The total value of the benefits payable remains the same with no additional costs to the employer.

The committee intends for OPM to offer other options for annuity payments which allow individuals to make selections best suited

to their individual circumstances. Just as S. 1527 provides retirement eligibility alternatives and career planning flexibility, the committee believes that similar choices for method of payment should be available. The committee believes OPM should consider methods frequently used in private industry. One example is life annuity certain whereby an annuitant is guaranteed a specified number of monthly payments whether the annuitant lives or dies before that time but guaranteed for the life of the annuitant who lives beyond the guaranteed time. Another option might be a joint and survivor option which provides less than 50 percent reduction to the survivor.

THRIFT PLAN

The General Accounting Office report to the committee entitled, "Features of Nonfederal Retirement Programs," June 26, 1984, reported that various pension surveys of the private sector found that most companies utilized some type of capital accumulation plan (CAP) to supplement the employer pension plan. For example, the largest survey, conducted by the Bureau of Labor Statistics, found that ¾ of the companies they surveyed utilized such a plan. CAPs cover a variety of plans including stock options, profit sharing and thrift plans.

CAPs are advantageous to both the employer and the employee. The costs are defined from year to year and thus avoid open ended pension liabilities for the employer. Employees enjoy them because of their portable nature, their inherent flexibility and their potential for investment growth.

A thrift plan, unlike other CAPs, is offered to employees on a voluntary basis, since it requires employee contributions. These contributions are typically matched to a certain extent by the employer. The contributions flow to individual employee accounts and are invested either by the employer or a board of trustees. Employees normally have access to the accounts upon separation from the employer or retirement. Employer contributions and earnings on the accounts are tax deferred until withdrawal. The Internal Revenue Service has interpreted the Internal Revenue Code to also allow tax deferral of employee contributions to a thrift plan under certain restrictions.

Thrift plans are very popular with employees at all income levels. Even at low income levels, 60–70 percent participation rates are common. Obviously, at higher income levels participation rates approach 100 percent.

Thrift plans are also provided in certain specialized retirement plans which cover such Federal entities as the Federal Reserve Board, the Tennessee Valley Authority, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency. The committee finds no good reason to deny the majority of the Federal workforce this benefit. For the Federal Government to be competitive in its hiring practices, it must accord its employees at least some of the creative compensation items offered in private industry.

Matching

S. 1527 provides for a tax deferred thrift plan. An employee may contribute up to 10 percent of salary per year. In option A, the Government will match the 5 percent dollar for dollar. In option B, the first 1 percent is matched dollar for dollar, percentage points 2 and 3 are matched at 50¢ on a dollar and percentage points 4, 5, and 6 are matched at 25¢ on a dollar. Employee contributions are based on pre-tax dollars. In fact, in this type of plan, also known as a salary reduction plan, Federal income tax is applied to the salary minus the employee contributions. Social Security taxes, however, are applied to total income up to the Social Security wage base.

Although matching at 50¢ on the dollar up to 6 percent of salary is typical in private industry, dollar-for-dollar matches are not infrequent. Since the vast majority of private sector plans are integrated with Social Security, thereby reversing the tilt away from low income workers, richer thrift plans are not necessary to retain higher-income employees. However, since S. 1527 provides for a defined benefit plan that does not reduce the Social Security tilt, a richer thrift plan is warranted to ensure competition with private industry at the managerial and executive levels.

Statistics show the greater the matching ratio, the greater the participation rate. Higher income employees are expected to utilize such a plan regardless of the match partly because of the tax advantages. A higher matching ratio, however will influence lower income workers to participate more extensively.

The legislation provides employees with an option to vary the amount of their contributions once a year, as well as to vary the investment vehicle. Thus, the committee expects employees to contribute from 0–10 percent of their salaries depending upon their needs. This grants employees great flexibility during their careers. When large expenditures from disposable income are necessary, employees presumably will reduce thrift plan participation. At other times the generous match and tax relief will ensure significant participation.

Vesting

Employees are immediately vested in their own contributions and earnings attributable to them. Employees gradually vest in the Government contributions over a 5-year period. An employee who remains for at least a year and then separates vests in 20 percent of the Government contributions. After each succeeding year this employee vests in another 20 percent until this percentage reaches 100 percent after the 5th year. Service under CSRS is applied to the vesting schedule for any employee transferring into this plan from CSRS.

At retirement an employee may withdraw the account balance either in a lump sum (which would allow 10 year tax averaging under current law) or in installments. Alternatively, the employee may apply the account balance to buy an annuity or may roll it over into an Individual Retirement Account (IRA) or a subsequent employer's pension program, all without tax consequences.

Prior to retirement but upon separation from Government service, the employee may leave the money in the account, or roll it

over into an IRA or subsequent employer's pension program. Outright withdrawals, however, are prohibited before retirement age. The committee recognizes the fact that private sector 401(k) plans normally authorize withdrawals upon separation from employment. However, the committee designed this plan, including the thrift portion to provide sufficient income to maintain one's standard of living into retirement. Requiring the thrift account to be used solely for retirement purposes is consistent with the committee's objectives.

On the other hand, permitting rollovers into IRAs or other pension programs does offer employees a great deal of flexibility and portability. One finding in the report of President Carter's Commission on Pension Policy, "Toward a National Retirement Income Policy," February 26, 1981, was that the lack of portability among employer pension programs often forfeited or seriously diminished employee retirement benefits. Essentially, permitting a transfer of assets from the thrift plan to an IRA or another employer's pension program resolves at least part of this problem.

Additionally, S. 1527 authorizes hardship loans from the thrift plan. The committee desires extensive participation in the thrift plan. However, employees occasionally are reluctant to lock in part of their income for 20–30 years. Since S. 1527 prohibits withdrawals until retirement eligibility, the committee was concerned that such a limitation would inhibit employee participation. The committee concluded that the best approach was to permit hardship loans similar to those permitted under some private sector 401(k) plans. This means that under certain limited circumstances, such as unexpected medical bills or educational expenses, employees could borrow part of their accounts with the requirement that principal and interest be repaid over a fixed period prior to retirement. This grants employees the needed financial flexibility to ensure significant participation in the thrift plan, while maintaining the plan's primary purpose to provide additional retirement income.

Private investment

Probably, the most significant and unique feature of the thrift plan is the gradual availability of thrift plan monies for private investment. Because this investment arrangement is a departure from traditional Federal practice, the committee spent substantial time in resolving this matter. Most convincing to the committee are the practices of private and State and local government pension funds, as well as a few Federal funds. Almost all such funds invest outside their own entities. Such employers have found that the more latitude available in selecting investments the greater the opportunities for making investments with higher returns and thus the lower the costs of providing the desired benefits. The committee is cognizant, however, of the drawbacks and dangers of private investment and, hence, has designed this plan to avoid those potential pitfalls. (These are discussed in the following pages.)

Offering employees the option to invest their thrift plan monies outside the Federal Government affords them an opportunity to receive higher investment returns and thus benefits at lower costs. Note the following chart provided to the committee by a witness, Jon S. Fossel, Senior Vice-President, Alliance Capital Management

Corporation, testifying at the committee's hearings on the legislation based on a widely quoted study by University of Chicago economists:

STOCK, BONDS, RISK FREE ASSETS, & INFLATION
COMPOUND GROWTH RATES, 1926-1983

	NOMINAL	REAL
COMMON STOCKS (S&P 500)	9.6%	6.6%
LONG-TERM CORPORATE BONDS	4.2%	1.2%
LONG-TERM GOVERNMENT BONDS	3.5%	0.5%
TREASURY BILLS	3.2%	0.2%
INFLATION	3.0%	—

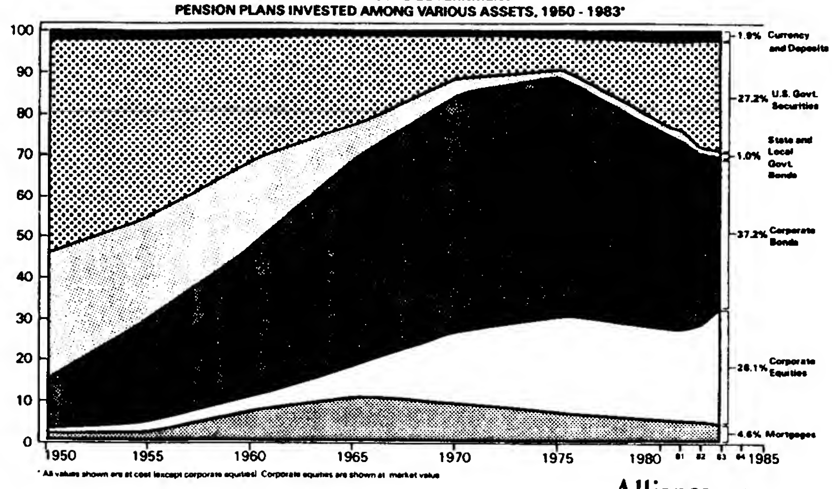
Source: University of Chicago

Alliance

Current practices are to invest Federal pension funds in long-term Government bonds. As can be seen in the above chart, investments in corporate bonds and securities have historically provided greater returns. Of course, the committee is aware that economic conditions of the future will not necessarily replicate economic conditions of the past. However, the committee believes that offering such investments to employees may translate into better benefits.

Another chart provided by Mr. Fossel shows how State and local government pension funds have invested their monies since 1950:

PERCENTAGE OF
STATE AND LOCAL GOVERNMENT
PENSION PLANS INVESTED AMONG VARIOUS ASSETS, 1950 - 1983*



* All values shown are at cost (except corporate equities) Corporate equities are shown at market value

Source: Federal Reserve Board Flow of Funds Accounts

This chart shows that since 1950 State and local government funds have divested themselves of reliance upon their own bonds and Federal securities for higher yielding corporate bonds and securities, although recent high interest rates for Federal securities reversed that somewhat. These facts were most compelling in the committee's conclusion that the Federal thrift plan take advantage of such investment opportunities.

Naturally, the committee was concerned about the higher risks associated with private investments. The committee dealt with that in several ways. First, the structure of S.S. 1527's investment funds minimizes risk. Second, pension fund investments are long-term investments. The daily and yearly vagaries of the market place will not have a significant impact on employee accounts which are invested over a 30-35 year period. Third, another chart derived from the same University of Chicago study revealed some interesting statistics:

COMPOUND ANNUAL RATES OF RETURN OVER BEST/WORST 20 YEAR PERIODS (1926-1983)

	Best 20 Years		Worst 20 Years	
	Nominal	Real	Nominal	Real
Small Stocks	21.1% (1942-61)	17.2% (1942-61)	5.7% (1929-48)	4.0% (1929-48)
Common Stocks	16.9% (1942-61)	13.0% (1942-61)	3.1% (1929-48)	0.8% (1962-81)
Long Term Corporate Bonds	5.5% (1926-45)	5.4% (1926-45)	1.3% (1950-69)	-2.7% (1962-81)
Long Term Government Bonds	4.7% (1926-45)	4.6% (1926-45)	0.7% (1950-69)	-3.1% (1962-81)
Treasury Bills	6.1% (1962-81)	1.0% (1952-71)	0.4% (1931-50)	-3.1% (1933-52)
Inflation	5.9% (1962-81)		0.1% (1926-45)	

SOURCE: *Stocks, Bonds, Bills and Inflation: 1984 Yearbook*, R.G. Ibbotson Associates, Chicago, 1984.

Alliance

Surprisingly, when comparing the worst 20 years of investment experience for each of these investment vehicles, long-term Government bonds had a lower return than corporate bonds or securities. Despite this the committee agreed to add language requiring the Thrift Investment Board to inform employees of the higher risks associated with investing in non-Federal securities.

Another concern the committee wrestled with was the potential for market manipulation through political pressure by Federal managers of the thrift plan. The committee specifically designed the plan to avoid this problem. S. 1527 provides for three investment funds which are essentially self managed. Employees will have the choice at least once a year to direct their contributions and the Government's contributions into one of these funds.

The first fund is a Federal securities fund. This fund will be composed of special issues of the Treasury, whose interest rate will be pegged to the average interest rate on all outstanding long-term Federal securities. The Second fund is a fixed income fund which will include non-Federal securities that guarantee a fixed rate of return, such as guaranteed insurance contracts, certificates of deposit and other debt instruments. The Federal managers of the thrift plan will contract with insurance companies, banks and other pension asset managers, who can provide fixed rates of return on secure investmens. The intention of this fund is to diversify assets among a variety of fixed-income instruments to assure a

reasonable rate of return. The investment instruments are to be secure, highly rated and conservative. The legislation requires that the contract investors be qualified pension asset managers certified under Department of Labor regulations.

The third fund is a stock index fund. A stock index fund is one in which a common stock index such as Standard & Poor's 500 or Wilshire's 5000 is used as the mechanism to allocate investments from the fund to various stocks. A common stock index is a composite of stocks such as Standard & Poor's 500 which moves up and down in value as prices of the stocks change. An index fund then allocates its investments to the stocks in the index in the same or similar ratio that the value of a given stock has to the total value of all of the stocks in the index. Thus, the actual decision to buy or sell a given stock is determined by the market place, i.e., the ratio of values of stock within the index. As the relative values change, the investments from the fund change. Hence, no individual or group of individuals are capable of manipulating investments. The committee finds the innate structure of the investment funds precludes political manipulation. In each case the fund is essentially self-managed.

To further avoid potential problems, S. 1527 extrapolates the fiduciary obligations, the enforcement provisions and the penalties applicable to private plans contained in the Employee Retirement Income Security Act and applies them to those handling the investments in the Federal thrift plan.

Granting a limited array of choices for employees follows the typical practice of private industry. Employees have varying needs and desires, and thus these investment choices provide Federal employees different ways to meet those needs. Such choices have proven very popular with private sector employees. The committee finds limiting the choices as important as providing them.

As an alternative the committee considered permitting any qualified institution to offer to employees specific investment vehicles. However, the committee rejected that approach for a number of reasons. First, there are literally thousands of qualified institutions who would bombard employees with promotions for their services. The committee concluded that employees would not favor such an approach. Second, few, if any, private employers offer such an arrangement. Third, even qualified institutions go bankrupt occasionally and a substantial portion of an employee's retirement benefit could be wiped out. This is in contrast to the diversified fund approach which could easily survive a few bankruptcies. Fourth, it would be difficult to administer. Fifth, this "retail" or "voucher" approach would give up the economic advantage of this group's wholesale purchasing power derived from its large size, so that employees acting individually would get less for their money.

The Board

S. 1527 also establishes an off-budget agency called the Thrift Investment Board to handle the investment and administration of the thrift plan. The legislation authorizes appropriations for the first 2 years. Subsequently, the Board is funded partly by forfeiture of Government matching contributions of non or partly vested terminated employees and by investment income from its invest-

ments. The committee expects this institution to be small and efficient.

The Board will be comprised of the Chairman of the Federal Reserve Board, the Director of the Office of Personnel Management, the Secretary of the Treasury, and two employee representatives, one from labor and one from a manager organization. These individuals will set the overall policy for investment of the thrift plan. For instance, the Board will decide the general types of fixed income instruments to invest in such as guaranteed insurance contracts or certificates of deposit. It will also choose the stock index to be utilized in the stock fund. The Board will be assisted in these functions by an advisory committee comprised of experts in investment and administration from private industry. A special employee advisory committee will be elected by thrift plan participants, which will also advise the Board on investment decisions and will vote the fund's shares in relevant corporate matters.

The Board will also choose an executive director who will manage the thrift plan. As opposed to general policy, the Executive Director will choose the contracts with pension asset managers and administer the plan provisions. The Board is prohibited from directing the Executive Director to make specific investments or contracts. The committee believes the political accountability of the Board members is important to ensure that the intent of the law is carried out. On the other hand, the committee intends that investment decisions be made totally independent of the Board members and possible political pressures.

Finally, the committee was concerned that opening the door for immediate investment opportunities outside of the Federal Government would have a negative impact on the large Federal deficit. Thus, employee contributions and then employer contributions are gradually phased into the opportunities to invest on the outside over a 10-year period.

Disability benefits

Contrary to popular opinion, the current sick leave systems and CSRS disability provisions fail to adequately protect workers from long illnesses or disabling injuries. Long illnesses or injuries requiring long recuperation periods can be financially devastating.

Good private sector coverage of sickness and disability usually includes a combination of sick leave, short-term disability protection such as accident and sickness insurance, and long-term disability protection. While the Federal Government now offers fairly generous sick leave benefits, disability retirement is the only employer sponsored plan available to an employee who exhausts his or her accumulated sick leave, even if the illness or disabling injury is of a temporary nature.

Protection under the CSRS disability provisions is limited, however. An employee is not vested for disability retirement until he or she has served 5 years or more in the Federal government and, until the employee serves for 22 years, his or her maximum benefit will be 40 percent of high-3 average salary.

The committee decided to establish a separate long-term disability (LTD) insurance plan, self-insured by the Federal Government but with benefits and services provided by a third party adminis-

trator, and to lower the time needed to qualify for benefits. Only 18 months of service are necessary to be eligible for benefits, rather than the 5 years required for CSRS disability benefits.

The CSRS has been criticized because its benefit levels are less generous than those provided by many private sector disability plans, combined with social security. LTD plans typically replace 60 percent of predisability earnings, offset by 100 percent of the Social Security disability benefit. CSRS, on the other hand, provides this replacement level only when the individual has 32 or more years of service.

The committee has adopted the practice of utilizing an LTD plan by paying a disabled employee 60 percent of his or her high–5 average salary, offset by 100 percent of the Social Security primary benefit, if any. After 1 year, if the employee does not meet the Social Security disability definition (unable to work in substantial gainful activity) but does meet the civil service occupational disability definition (unable to do any job at his or her grade level for which qualified in the same commuting area and agency), benefits are reduced from 60 percent to 40 percent of high–5 pay. If, however, the employee does meet the Social Security definition of disability, benefits remain at 60 percent of high–5 pay.

LTD benefits begin after all sick leave has been used and continue until the employee recovers or is converted to the regular retirement rolls. For an employee who is occupationally disabled, conversion to annuitant status occurs at age 55. An employee who is disabled under the Social Security definition is converted at age 62. An employee's high 5 at the onset of disability is used to compute his respective retirement benefit, adjusted by the annual increase in the CPI minus 2 percentage points under Option A and the General Schedule salary increase in Option B.

During the period the employee is receiving LTD benefits, his or her time on the disability rolls is credited as service for the basic retirement benefit formula, the LTD benefit is adjusted by the annual increase in the CPI minus 2 under Option A and the annual increase in the CPI in Option B. Also, the employee may continue to participate in the thrift plan.

To minimize differences from the CSRS, the majority of standards and procedures applicable to the FRS are identical to those of the CSRS.

Employees receiving LTD benefits are subject to medical examination and to a review of earnings to determine that continuation of these benefits is warranted. Because agencies will pay the cost of disability benefits to their disabled workers, the committee expects this to encourage managers to make stronger efforts to reemploy those workers who recover from their disability.

The Office of Personnel Management must contract for claims payment and related administrative services for the LTD benefits program. The bill contemplates that these services could be provided by an insurance company or some other entity.

The committee decided to provide no exemption from competitive contract procedures. The committee intends that OPM be allowed maximum flexibility in applying streamlined contracting procedures so that avoidable delays in administration of this program will not occur. Contracts may run up to 5 years, with an option for

annual renewal in recognition of the fact that considerable start up effort is likely on the part of the contractor. On the other hand, it is expected that unsatisfactory performance by the contractor will result in prompt termination of the contract.

OPM will compute the amount due the disability insurance fund from each agency for payments to disabled employees of that agency. It is intended that OPM be permitted to vary the amounts in recognition of different experience rates in different agencies.

Because disability benefits are provided in a completely different way under this plan as compared to the CSRS, the committee decided that employees covered by the FRS who have service under the CSRS (transfers or rehires) will receive disability benefits only under the FRS. Service under both plans will count for benefit eligibility, however.

Survivor benefits

With Social Security serving as the base for this plan, widows and widowers who have attained age 60 (50 if disabled) or with children under 16 receive benefits from Social Security. Survivor benefits are also paid to surviving children up to age 18 and to a divorced spouse who was married at least 10 years. However, Social Security benefits received are subject to an earnings test while the recipient is under age 70.

The committee decided to provide enhanced supplemental death benefits. An annuity will be payable from the basic plan upon the death of the worker. In addition to survivor benefits from the pension plan, employees covered by the Federal Employees Group Life Insurance (FEGLI) will receive basic life insurance coverage while they are working, which is enhanced in option B.

Life insurance can be very valuable immediately after the death of an employee. Essentially, the new change in option B guarantees life insurance in an amount equal to approximately two times salary while working. This is in contrast to the current FEGLI program, which option A maintains, of gradually reducing coverage after age 35 to 1.0 multiplied by salary at age 45 and beyond.

The committee further decided not to offset Social Security survivor benefits from the survivor annuity payable from the pension plan. A retiree's annuity will be reduced by 10 percent to pay for part of the cost of each survivor annuity under the FRS. The survivor annuity will still be subsidized by the Government, but not to the same extent as the CSRS.

Preretirement benefits

Preretirement death benefits are 50 percent of the amount payable to the decreased worker before reduction for election of a joint-and-survivor form of annuity payment and, in Option B, also before reduction for early retirement. In computing this benefit, the employee is deemed to have a minimum of 10 years of service.

The Committee also concluded that an annuity should be provided for survivors of former Federal employees who were entitled to a deferred annuity at the time of their death, computed the same way as for other preretirement death situations.

Preretirement survivor benefits are automatically paid from the basic plan immediately after the death of the employee to the spouse of a decreased employee who had 18 months of service.

Postretirement benefits

Postretirement survivor benefits from the basic plan are contingent upon elections made by the employee at the time of retirement or, in the event of a change in marital status, after retirement. For an employee who is married on the date of retirement, a 50-percent joint-and-survivor annuity is automatic unless the retiree and spouse jointly waive this method of payment. Postretirement benefits are essentially the same in both options, 50 percent of the amount payable to the deceased retiree before reduction for a joint-and-survivor annuity, but after any early retirement reductons. Such a waiver permits election of some other annuity form, if desired.

The committee decided to treat elections of survivor annuities from the basic plan in essentially the same manner as they are treated under CSRS. An annuitant may elect to provide a survivor annuity from the basic plan to one or more eligible former spouses or to a designated individual who has an insurable interest in the annuitant. The annuitant also may elect a payment method other than a 50-percent joint-and-survivor annuity. Survivor annuities from the basic plan are subject to an overall limit of 50 percent of the deceased individual's annuity, so that elections to provide more than one survivor annuity result in a sharing of this amount.

A survivor annuity terminates on the date the recipient remarries before age 55 or dies. In option B only. If the spouse or other designated person predeceases the retiree, the annuity is recomputed to restore the value of the annuity to what it would have been absent a reduction to provide such an annuity.

Option A continues the reduction throughout the annuitant's life, similar to private industry practice.

To protect employees or annuitants entitled to benefits from both the CSRS and the FRS, the committee decided survivor benefis would be computed based on years of service under each plan separately. For employees who die while in active service with only a few years under the CSRS, this would most likely result in payment of the guaranteed minimum under CSRS, plus benefits payable under the FRS.

An annuitant may also elect an annuity with a survivor benefit from the Thrift Savings Fund. The committee's intent is to allow maximim flexibility to the Board and the annuitant in deciding how to allocate money from this fund. The only limit on payment of survivor annuities from the Thrift Savings Fund is the total income accumulated in the individual's thrift account. It is therefore possible, if an annuitant wishes to do so, to provide several survivor annuities with a value of 50 percent of the annuitant's annuity.

Preretirement death benefits from the Thrift Savings Fund are automatically paid to the surviving spouse unless the deceased individual is not survived by a spouse, in which case payment is made to an individual designated as having an insurable interest or to the deceased's estate. The surviving spouse may elect to re-

ceive an annuity, to transfer the amount to an IRA, or to withdraw it in one or more payments.

An annuitant may elect to provide a survivor annuity from the basic plan, the Thift plan, or both to any former spouse who was married to the annuitant for at least 9 months. The amount of the annuity and the upper limit on annuities, when more than one is payable, are the same as for a spouse. If there is a current spouse, that spouse must consent to the election of this benefit for a former spouse.

Although the suvivor benefits are described as automatically going to a surviving spouse, the existence of a court order directing payment to another person would preclude this automatic feature from taking effect.

Transfers from the CSRS to the FRS

The committee finds that the FRS contains a number of advantages over the CSRS and that employees subject to the CSRS should therefore be permitted an opportunity to join the FRS. These advantages include increased portability, greater flexibility, generally better survivor and disability protection, and better benefits for full career employees participating in the thrift plan.

Most employees, when they join the Government, do not plan to make it a career. However, if they leave prior to retirement eligibility, their eventual retirement benefits, if any, are significantly devalued because of future inflation. Additionally separating employees are unprotected for disability and survivor benefits.

Social Security coverage ensures continued disability and survivor protection, and the FRS provision of a thrift plan substantially removes the penalty normally attrached for leaving Government to pursue another career. The committee believes that these benefits alone will attract a number of current workers to the new system.

Another advantage of the FRS for a current worker is the possibility of participation in the thrift plan. Many younger employees will find the portable thrift plan attractive. Employees who are considering leaving Government prior to retirement would find transferring plans probably in their interest.

The committee believes that employees electing to join the FRS should have an attractive and timely opportunity to do so. The decision to join must be made within 1 year after the effective date of the FRS, which is January 1, 1987, meaning employees will have until January 1, 1988 to make a choice, and the election will be prospective. Benefits at retirement will be computed using the rules of both systems for the period of service attributable to each system. To avoid a loss of benefits due to the transition, several additional provisions apply.

First, the employee's salary after the transfer counts toward the average salary computation under both the old and new plans. Thus, although crediting of service toward CSRS stops at the point of transfer, increases in the average salary afterward are used in the CSRS salary base.

Second, service both before and after transfer counts toward the service required under either plan to retire, or to get deferred vested benefits.

Also, employees carry forward any survivor coverage they had at the date of transfer. Disability coverage from the old plan stops, and employees get credit for service before transfer toward the 18 months needed to become eligible for LTD benefits under the plan.

In addition to these provisions, which guard against loss of benefits, are several others which support a decision to transfer. First, the employee's service before the transfer counts as plan service in determining the extent he or she is vested in the Government's share of contributions to the thrift plan. Second, employees who transfer and remain in the new system for 5 years are no longer subject to the windfall benefit reduction or the public pension offset rule applying to spouses under the Social Security Act.

Under the windfall benefit reduction, workers may have their Social Security benefits computed by a modified formula that provides reduced benefits, if they first become eligible after 1985 for both a Social Security benefit and a pension earned in employment not covered by Social Security. Under the public pension reduction, most persons who become eligible for a public pension will have the amount of any Social Security dependents' or survivors' benefits reduced on account of that public pension.

While the FRS is specifically designed for a new workforce, the aforementioned features make it very attractive for current workers to join.

Interim employees

Employees hired after 1983 pay 1.3 percent of salary toward civil service retirement, in addition to Social Security payroll taxes. The committee finds that, since the FRS is noncontributory by employees in option A and requires only the difference between the normal CSRS contribution and the OASDI tax in option B, contributions from January 1, 1984 through December 31, 1986 in excess of the amount required in the new plan, if any, should be used to establish thrift savings accounts for employees still employed on January 1, 1987, the effective date of the FRS.

The thrift savings account so established will be invested in the Government Securities Investment Fund established by S. 1527. It will consist of the participant's contributions, plus interest equal to the yield on new investments in the Civil Service Retirement Fund, multiplied by 2. This will give these employees a head start in the new thrift plan.

Employees hired during the interim period who separate prior to the effective date of the FRS are entitled to receive a lump-sum credit of their contributions under the terms of chapter 83 of title 5.

S. 1527 extends the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 for an additional year, until January 1, 1987. Therefore, for the period January 1, 1984 through December 31, 1986, new Federal employees continue to be covered under both CSRS and Social Security, with survivor and disability benefits payable under CSRS fully offset by benefits payable from Social Security and with a contribution rate of 1.3 percent rather than 7 percent to CSRS.

Cost

The cost of a retirement program is certainly a major consideration in its design. In light of the size of the Federal workforce, whatever retirement plan is designed will have a significant cost. The committee very carefully crafted the provisions of S. 1527 with cost in mind, giving particular attention to the cost of the CSRS and private sector plans. The actual cost of a pension plan is equal to the benefits paid, plus administrative expenses minus investment income. This cost is based on the level of benefits, retirement age, mortality rates, turnover, administrative expenses, participation rates and investment income from the plan. Because most of the factors that determine the true cost of a retirement plan are so variable and all are in the future, the committee relied upon a method utilized in the pension field to estimate the future cost. Such a method is called the "entry age normal cost" method. Normal cost is defined as the present value of future retirement benefits divided by the present value of future earnings during the worker's career. In other words, it is the percentage of payroll for a group of newly hired employees which must be invested over the total career of each employee to fully pay for all benefits received by that group. Normal cost can vary significantly depending upon demographic, economic, and behavorial assumptions.

The committee turned to the Congressional Research Service to provide the various assumptions and computer model to determine the normal cost of this plan.

The following is an excerpt of their report to the committee detailing the cost of S. 1527:

> COST
>
> The cost projections represent "entry-age normal costs," a cost presentation that compares the career salaries and lifetime benefits of a statistically representative group of entering employees. The approach can be generally understood as the percentage of every paycheck that should be invested, over the total career of each employee in a group of new entrants, to fully pay for all benefits received by that group, including all eligible survivors. Normal cost is formally defined as the present value of future benefits divided by the present value of future compensation. These values are expressed as a percentage of payroll, and provide a consistent measure of relative pension costs over time.
>
> The Congressional Research Service (CRS) priced Options A and B as separate plans, as if the entering group of employees were covered by cne or the other. Allowing the group of employees to choose between the plans at entry will not affect cost projections, although permitting employees to choose at some point after entry could have a significant impact on costs as the group began to separate according to actual advantages. CRS has not attempted to estimate the extent of this "adverse selection" contingency, but its potential magnitude would increase with the distance over time between entry and the point of choice.

CRS is not providing estimates of long-term tax revenue effects of the tax advantages of any part of the system. Measuring those potential advantages requires the incorporation of easily challenged assumptions; however, in theory the ultimate impact of the tax advantage will be smaller than that of the existing Civil Service Retirement System (CSRS) because the proposed plan costs less and thus defers less in potentially taxable compensation. Any estimates of short-term revenue losses or gains will be done by the Congressional Budget Office.

TABLE 1.—COMPARISON OF ENTRY AGE NORMAL COST ESTIMATES FOR TWO OPTIONS OF S. 1527 [1]

[In percent]

	Option A			Option B		
	Employer share	Employee share (average)	Total	Employer share	Employee share (average)	Total
Defined benefit plan	13.0		13.0	14.2	1.1	15.3
Social security [2]	5.9	5.9	11.8	5.9	5.9	11.8
Increased FEGLI				.3		.3
Capital accumulation plan (voluntary) [3]	3.0	3.0	6.0	1.5	2.6	4.1
Full cost [4]	21.9	8.9	30.8	21.9	9.6	31.5

[1] All cost figures are rounded to the nearest tenth of a percent. Administrative costs and benefits to special groups are excluded. Under the current CSRS these costs are estimated to be 0.1 and 0.3 percent of pay, respectively.

[2] Social security cost is the percentage of total Federal payroll taxable for social security (OASDI).

[3] For employees, cost of the capital accumulation plan is shown as the average cost. Average cost is determined by dividing the projected sum of all contributions (up to the specified matching limit for each employee) by the number of employees, assuming the estimated rate of full participation. The cost to the government is the employee cost times the matching rate.

[4] Average full cost includes projected average employee contribution and employer match to the capital accumulation plan.

TABLE 2.—ENTRY AGE NORMAL COST OF THE TWO OPTIONS OF S. 1527 BY BENEFIT NORMAL COST [1]

[Percent of total Federal pay]

Defined benefit component	Option A	Option B
Annuities to employees:		
Optional retirement	9.5	10.6
Involuntary retirement	.3	.5
Disability retirement	.9	1.5
Deferred retirement	.6	.6
Subtotal, retirement	11.3	13.2
Annuities to survivors of:		
Age retirees	1.0	1.2
Disability retirees	.3	.3
Active employees	.4	.6
To children		
Subtotal, survivors	1.7	2.1
Refunds		
Total:		
FEGLI		.3
Defined benefits	13.0	15.3

[Percent of total Federal pay]

Defined benefit component	Option A	Option B
Average capital accumulation [2]	6.0	4.1
Social security [3]	11.8	11.8
All benefits	30.8	31.4
Less employee contributions:		
Defined benefit		1.1
Capital accumulation	3.0	2.6
Social Security [4]	5.9	5.9
Total, employee contributions	8.9	9.6
Total, employer cost	21.9	21.9

[1] Detail may not sum to totals due to rounding. Administrative costs and benefits to special groups are excluded.

[2] Based upon net employer contributions matching average contributed by all workers (including nonparticipants.

[3] Approximately 0.4 percent of payroll of the social security cost is not distributed to Federal workers but flows to relatively lower-income social security participants outside the Federal Government.

[4] Social security average contribution as a percent of total payroll.

Details of the various assumptions and methods used by the Congressional Research Service to estimate costs are included in excerpt from their report following the replacement rate section in this report.

Although the main objective of calculating the normal cost of a pension plan is to ensure that it is properly funded, the normal cost of a plan becomes a good comparative measure of costs among various plans. The normal cost of the FRS to the Government is 21.9 percent. Using the same assumptions, the normal cost of the CSRS is 25 percent.

The 21.9 percent figure includes the Government's matching share for the Social Security contribution, the Government's contribution to the basic pension plan, and the employer's matching share to the thrift savings plan. The committee believes that the benefits provided by S. 1527 at a normal cost of 21.9 percent compare favorably to private sector plans. This also represents a significant reduction in cost from the current CSRS. The latest study of typical private sector plan costs by the Congressional Research Service indicates that the average employer cost for a group of medium and large size firms is between 18 and 19 percent of payroll, although some of the plans examined ranged as high as 25 percent in cost. The committee believes that the normal cost of the new FRS, when looked at in the context of the total Federal benefits and employment picture, compares favorably with equivalent private sector retirement and other benefit programs.

Financing FRS

Financing Federal retirement programs has become a subject of significant public debate. Central to the controversy is the funding for the current CSRS. Under the present retirement system, employees contribute 7 percent of their basic pay to the CSRS Trust Fund. Employing agencies must contribute a matching amount. Other contributions to the Trust Fund come from general revenues of the Treasury. Therefore, under the current CSRS, there is a con-

siderable subsidy from the General Fund. Even with this subsidy the unfunded liability of the system grows each year.

In designing the funding arrangement for the new plan, the committee was guided by several considerations. Foremost is the interest in sound fiscal and accounting management, whereby the Government will have a set cost for the retirement plan with the employing agencies paying fully for each of their employees in the system. The committee is also sensitive to the public's concern about mounting future financial obligations for Federal retirement. In addition, the committee believes that the funding arrangement for the new FRS should meet some of the same requirements imposed upon private sector pension plans.

To be a qualified plan for tax purposes, private plans normally fund a plan on a normal cost basis, along with a process for amortizing liabilities over time.

The funding approach of the current CSRS would fail to meet the requirements of Federal law as applicable to private pension plans. To meet such requirements, each agency would be required to fund the normal cost of its employees at somewhere between 25–29 percent of payroll, as opposed to the matching 7 percent. In addition, the Government would have to amortize the entire unfunded liability of the system in 30–40 years.

With these concerns in mind, the committee chose to have the new FRS funded along the lines of Federal requirements for private industry. This applies primarily to the basic pension plan portion, since the thrift savings plan is fully funded by its very nature. Employing agencies will be required to pay into the retirement fund the full amount of the normal cost for their employees, estimated to be approximately 13–15 percent of payroll depending upon the option chosen. On an annual basis, when any part of the FRS is found to be unfunded, the liability will be amortized by payments from the Treasury over a 30-year period. Therefore, the FRS can be said to be fully funded through this process.

There is a key change in the funding arrangements under FRS with regard to military service credit. Employees covered under FRS, other than those who voluntarily transfer from the CSRS, will automatically receive retirement service credit for their military service without making a deposit to the retirement fund. However, the Department of Defense will reimburse the Civil Service Retirement Fund annually for the normal cost of the military service for individuals who become participants in the system during that year.

Under the current plan, employees must reimburse the retirement fund in amount equal to 7 percent of their military basic pay in order to receive credit for their military service toward retirement. However, the employer share comes from the general revenues of the Treasury which has added to the funding liabilities of the current CSRS. Since the basic pension portion of the FRS is funded by the employer with no employee contribution, except under option B, the committee believes that the contributions for military service should be made by the employer. Just as each agency pays for the normal cost of its employees, the Department of Defense will pay the normal cost for the military service of those

joining the new system. The committee believes this is in keeping with the full funding approach.

Replacement rates

The committee again utilized the services of the Congressional Research Service for projections of retirement benefits expected to be received by participants of the FRS. Projected retirement benefits are expressed in terms of replacement rates.

A replacement rate is simply the percentage of an employee's final pay replaced by retirement benefits. Replacement rates are often used as a measure of the adequacy of retirement benefits. Normally retirement income is lower than during the working years, with most retirees facing lower expenses than when they were working. However, it is expected that retirement income should bear some relationship to pre-retirement earnings so that a worker's standard of living is generally carried over into retirement. This amount, or the replacement rate, will vary depending on income level. Most experts agree that the rate for low income employees should equal 70–80 percent, while for higher income workers, the rate should be around 60 percent. For FRS this means that the combined benefits from Social Security, the defined benefit plan, and the thrift savings portion should eqaual these generally accepted replacement rates.

Analyzing replacement rates under the CSRS is relatively straightforward. By applying the benefit formula of accrual rates multiplied by average pay multiplied by years of service, the replacement rates are changed only by years of service. In other words, under CSRS, employees who retire with 30 years of service have replacement rates of 53 percent regardless of income level. Those who retire after 35 years get pensions equal to 63 percent of their final pay, whether they retired as a $15,000 per year worker or as a $70,000 executive.

However, replacement rates under the new FRS are subject to several variables—amount of Social Security benefit, years of service, income level, age at retirement, and participation in the thrift savings plan. While there is a natural tendency to compare rates between CSRS and FRS, the comparison must consider the variables.

Replacement rates from the Social Security portion of the pension will vary by income level because of the "tilt" by which lower income employees receive a greater proportion of their earnings through the Social Security benefit. When the defined benefit plan is added to the Social Security benefit, lower income employees receive a larger percentage of their salaries than their higher income counterparts. To achieve the desired level of replacement rates for a full career employee as discussed above, a lower income employee would need to participate in the thrift plan at a lesser rate than a higher income employee. The committee fully intends the plan to provide benefits to employees at all income levels which are necessary to maintain in the employees' standards of living into retirement. Obviously, the eventual replacement rates will be dependent in large part upon returns on investment in the thrift plan, as well as wage growth and price inflation. As mentioned previously the committee is utilizing the projections of the Congressional Re-

search Service (CRS) to assist in explaining the benefits to be derived from this plan. The following is an excerpt of the CRS report detailing expected benefits at various ages and income levels, as well as an explanation of the methodological support for the benefit and cost projections.

REPLACEMENT RATES

The replacement rates are the projected percentages of gross salaries received in the year before retirement that are replaced by gross benefits in retirement. These benefits and wages have been adjusted to 1985 levels. Workers are shown retiring in the year 2030 after all increases in the Social Security retirement age for full benefits have phased in. By 2027, that age for full benefits will be 67, and benefits received before that age will be reduced, with a maximum of 30 percent the reduction applied to benefits received at age 62, the earliest age of entitlement for old-age retirement under the program. Social Security benefits shown here are prorated to reflect the proportion of Social Security benefits earned in Federal employment.

Capital accumulation plan (CAP) amounts are fully indexed so that real values over time are shown. The tables show replacement rates for individuals participating fully in the respective CAPs and for those participating not at all. Maximum annuities imply full participation up to the matching limit throughout the work career; conversely, the "without CAP" line represents workers never participating. Experience from the private sector suggests that most workers would not exhibit either of these polar characteristics but would vary their participation in response to changing personal or broader economic circumstances.

TABLE B-1.—GROSS PERCENTAGE OF PRERETIREMENT SALARY REPLACED BY POSTRETIREMENT BENEFITS FOR WORKERS RETIRING UNDER CURRENT CSRS IN THE YEAR 2030

[Final salaries have been adjusted to 1985 dollars]

	$15,000	$30,000	$45,000	$60,000	$75,000
Gross replacement rates:					
10 years of service	15	15	15	15	15
20 years of service	34	34	34	34	34
30 years of service	53	53	53	53	53
35 years of service	63	63	63	63	63
40 years of service	72	72	72	72	72

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TABLE B-2.—Gross Percentage of Preretirement Salary Replaced by Postretirement Benefits for Workers Retiring in the Year 2030

[Final salaries have been adjusted to 1985 dollars]

	$15,000	$30,000	$45,000	$60,000	$75,000
Retirement at age 55 with 30 years of service					
OPTION A					
At retirement:					
Total rate	38	38	38	38	38
(without CAP)	(23)	(23)	(23)	(23)	(23)
Pension	23	23	23	23	23
OASDI	0	0	0	0	0
CAP	15	15	15	15	15
Total rate at age 62	55	50	46	43	41
(without CAP)	(40)	(35)	(31)	(28)	(26)
Pension	18	18	18	18	18
OASDI	22	17	13	10	8
CAP	15	15	15	15	15
Total rate at age 67	53	49	45	42	40
(without CAP)	(38)	(34)	(30)	(27)	(25)
Pension	16	16	16	16	16
OASDI	22	17	13	10	8
CAP	15	15	15	15	15
Total rate at age 80	53	49	45	42	40
(without CAP)	(38)	(34)	(30)	(27)	(25)
Pension	16	16	16	16	16
OASDI	22	17	13	10	8
CAP	15	15	15	15	15
OPTION B					
At retirement:					
Total rate	40	40	40	40	40
(without CAP)	(27)	(27)	(27)	(27)	(27)
Pension	27	27	27	27	27
OASDI	0	0	0	0	0
CAP	13	13	13	13	13
Total rate at age 62	59	54	50	47	45
(without CAP)	(46)	(41)	(37)	(34)	(32)
Pension	24	24	24	24	24
OASDI	22	17	13	10	8
CAP	13	13	13	13	13
Total rate at age 67	59	54	50	47	45
(without CAP)	(46)	(41)	(37)	(34)	(32)
Pension	24	24	24	24	24
OASDI	22	17	13	10	8
CAP	13	13	13	13	13
Total rate at age 80	59	54	50	47	45
(without CAP)	(46)	(41)	(37)	(34)	(32)
Pension	24	24	24	24	24
OASDI	22	17	13	10	8
CAP	13	13	13	13	13
Retirement at age 62 with 10 years of service					
OPTION A					
At retirement:					
Total rate	20	19	18	17	17
(without CAP)	(14)	(13)	(12)	(11)	(11)
Pension	8	8	8	8	8
OASDI	6	5	4	3	2
CAP	6	6	6	6	6

[Final salaries have been adjusted to 1985 dollars]

	$15,000	$30,000	$45,000	$60,000	$75,000
OPTION B					
At retirement:					
Total rate	19	18	17	16	16
(without CAP)	(14)	(13)	(12)	(11)	(11)
Pension	8	8	8	8	8
OASDI	6	5	4	3	2
CAP	6	6	6	6	6
Retirement at age 62 with 20 years of service					
OPTION A					
At retirement:					
Total rate	43	41	38	36	35
(without CAP)	(30)	(28)	(25)	(23)	(22)
Pension	17	17	17	17	17
OASDI	14	11	8	7	5
CAP	13	13	13	13	13
Total rate at age 67	42	39	37	35	34
(without CAP)	(29)	(26)	(24)	(22)	(21)
Pension	16	16	16	16	16
OASDI	14	11	8	7	5
CAP	13	13	13	13	13
Total rate at age 80	42	39	37	35	34
(without CAP)	(29)	(26)	(24)	(22)	(21)
OPTION B					
At retirement:					
Total rate	42	39	36	35	34
(without CAP)	(30)	(28)	(25)	(23)	(22)
Pension	17	17	17	17	17
OASDI	14	11	8	7	5
CAP	11	11	11	11	11
Total rate at age 67	42	39	36	35	34
(without CAP)	(30)	(28)	(25)	(23)	(22)
Pension	17	17	17	17	17
OASDI	14	11	8	7	5
CAP	11	11	11	11	11
Total rate at age 80	42	39	36	35	34
(without CAP)	(30)	(28)	(25)	(23)	(22)
Retirement at age 62 with 30 years of service					
OPTION A					
At retirement:					
Total rate	69	64	60	56	54
(without CAP)	(50)	(45)	(41)	(37)	(35)
Pension	27	27	27	27	27
OASDI	23	18	13	10	8
CAP	19	19	19	19	19
OPTION B					
At retirement:					
Total rate	66	61	57	54	52
(without CAP)	(50)	(45)	(41)	(37)	(35)
Pension	27	27	27	27	27
OASDI	23	18	13	10	8
CAP	17	17	17	17	17
Retirement at age 62 with 35 years of service					
OPTION A					
At retirement:					
Total rate	81	75	70	66	64
(without CAP)	(59)	(53)	(48)	(44)	(42)
Pension	32	32	32	32	32

[Final salaries have been adjusted to 1985 dollars]

	$15,000	$30,000	$45,000	$60,000	$75,000
OASDI	27	21	16	12	10
CAP	22	22	22	22	22
Total rate at age 67	79	73	68	64	61
(without CAP)	(57)	(51)	(46)	(42)	(39)
Pension	29	29	29	29	29
OASDI	27	21	16	12	10
CAP	22	22	22	22	22
Total rate at age 80	79	73	68	64	61
(without CAP)	(57)	(51)	(46)	(42)	(39)
OPTION B					
At retirement:					
Total rate	79	72	67	63	61
(without CAP)	(59)	(53)	(48)	(44)	(42)
Pension	32	32	32	32	32
OASDI	27	21	16	12	10
CAP	19	19	19	19	19
Total rate at age 67	79	72	67	63	61
(without CAP)	(59)	(53)	(48)	(44)	(42)
Pension	32	32	32	32	32
OASDI	27	21	16	12	10
CAP	19	19	19	19	19
Total rate at age 80	79	72	67	63	61
(without CAP)	(59)	(53)	(48)	(44)	(42)
Retirement at age 62 with 40 years of service					
OPTION A					
At retirement:					
Total rate	89	83	78	74	72
(without CAP)	(64)	(58)	(53)	(49)	(47)
Pension	37	37	37	37	37
OASDI	28	21	16	12	10
CAP	25	25	25	25	25
OPTION B					
At retirement:					
Total rate	86	80	75	71	68
(without CAP)	(64)	(58)	(53)	(49)	(47)
Pension	37	37	37	37	37
OASDI	28	21	16	12	10
CAP	22	22	22	22	22
Retirement at age 67 with 30 years of service					
OPTION A					
At retirement:					
Total rate	81	74	68	64	62
(without CAP)	(58)	(51)	(45)	(41)	(39)
Pension	27	27	27	27	27
OASDI	31	24	18	14	11
CAP	23	23	23	23	23
OPTION B					
At retirement					
Total rate	78	71	65	61	59
(without CAP)	(58)	(51)	(45)	(41)	(39)
Pension	27	27	27	27	27
OASDI	31	24	18	14	11
CAP	20	20	20	20	20

[Final salaries have been adjusted to 1985 dollars]

	$15,000	$30,000	$45,000	$60,000	$75,000
Retirement at age 67 with 40 years of service					
OPTION A					
At retirement:					
Total rate	105	96	89	84	81
(without CAP)	(74)	(65)	(58)	(53)	(50)
Pension	37	37	37	37	37
OASDI	38	29	22	17	13
CAP	31	31	31	31	31
OPTION B					
At retirement:					
Total rate	102	92	86	80	77
(without CAP)	(74)	(65)	(58)	(53)	(50)
Pension	37	37	37	37	37
OASDI	38	29	22	17	13
CAP	27	27	27	27	27

Note.—Accural rate of .9 percent of pay per year for the first 15 years of service and 1.1. percent per year for the remaining service. CAPs are indexed to show actual value over time. Totals may not add due to rounding.

METHODOLOGICAL SUPPORT

Cost and replacement rate models

The estimates of retirement costs and benefits presented in this analysis were generated using the Congressional Research Service's cost and replacement rate models. These computer-based actuarial models were developed by CRS with actuarial support and a Pension Valuation Language (PVL) provided under contract by Hay-Huggins, Inc., an actuarial consulting firm. It should be noted that these models project future outcomes from assumptions. While such projections are valuable tools for making relative cost and benefit comparisons, it is inappropriate to imply or to seek a degree of accuracy for them that is in principle unattainable.

1. Cost Model

The cost model projects long-term costs of pension designs. The approach used is known as "entry age normal cost," and can be generally understood as the percentage of every paycheck that should be invested, over the total career of each employee in a group of new entrants, to pay fully for all benefits received by that group, including all eligible survivors. Normal cost is formally defined as the present value of future benefits divided by the present value of future compensation. These values are expressed as a percentage of payroll, and provide a consistent measure of relative pension costs over time.

2. Replacement rate model

The replacement rate model projects the percentage of gross preretirement wages replaced by gross postretirement benefits. This percentage can be shown at retirement

and at various ages after retirement, with the latter expressed in values relative to purchasing power at retirement. Capital accumulation replacement rates assume the purchase of an annuity indexed to the assumed rate of inflation.

Data and assumptions

The cost and replacement rate models required the use of certain data and assumptions, in order to project cost and benefit outcomes for employees entering work in 1985 and retiring in the year 2030. A profile of the Federal work-force into the future was drawn from data of the current system, and other factors pertaining to costs and benefits were identified and assumptions about the relative weight of those factors were made. Complete documentation of the methodology, data and basis for all assumptions is available from CRS.

1. Demographic assumptions

Given the order of magnitude of Federal employment, fairly reliable data on the Federal workforce could be obtained, and was used whenever appropriate. The vast majority of the data used to construct a demographic profile of the Federal workforce was provided by the Office of Personnel Management (OPM). These data included career patterns, mortality and disability rates, probability of leaving a surviving dependent, etc. Certain modifications were made to the OPM data that lessen the growth over time in the patterns of career improvement, and social security estimations of future improvements in mortality were also incorporated.

2. Economic assumptions

All economic assumptions were taken from the 1985 Social Security Trustees' Report under the designation, "Intermediate II-B." The II-B assumptions are most commonly accepted as being neither optimistic nor pessimistic. When the 1986 Trustees' report is issued, CRS will incorporate any changes to II-B into the cost and replacement rate models. For 1985, the assumptions were annual average increases of: Interest, 6.1 percent; wages, 5.5 percent; and prices, 4.0 percent.

3. Behavioral assumptions

Changes in plan designs relative to one another will cause changes in behavior which in turn affect plan costs. The changes in assumed rates of retirement, separation, etc., were made by the actuarial consultant, after research and discussions with CRS staff.

4. The cost of Social Security

Generally, the cost of Social Security to its participants is the same as the tax that must be paid to the program. For these estimates, the cost of Social Security is the ratio

of Social Security (OASDI) taxes to total Federal payroll over the 75-year period of the projection, evenly divided between employees and the Federal Government as employer. Under Social Security II-B assumptions, the benefits and taxes of the program are roughly in balance over that period, if the tax on Social Security benefits is treated as a revenue to the program. It should be noted, however, that some of the Social Security taxes on Federal payroll are not received back by Federal workers in the form of benefits because the average of Federal wages covered by Social Security exceeds the average covered wage in employment outside the Federal Government. Because the Social Security formula enhances the benefits of lower-paid workers, approximately 0.4 percent of payroll of the tax credited to Social Security from Federal wages is redistributed to workers outside the Federal Government. If the Federal Government is viewed, not as an employer, but in its other role as participant in the national economy, this redistributed amount could be construed as savings.

Other differences in the pattern of payments between the present CSRS and Social Security are also taken into consideration when costs or replacement rates for a new plan incorporating Social Security are compared to the current system. The value of this difference is approximately 2 percent of payroll. About two-thirds of the difference is attributable to the portable rights to Social Security earnings credits retained by employees who leave employment with less than a full career. The remainder of the difference, after certain offsets and overlaps are netted, is attributable to dependents' benefits payable under Social Security but not payable from the current CSRS. The sum or these differences in the pattern of payments has been distributed across the various benefit components of the proposal and is thus reflected in lower replacement rates at retirement (excluding benefits from capital accumulation) of about 5 percent of total benefits attributable to the employer share of total plan costs.

5. Estimated capital accumulation costs

Cost of the capital accumulation plans analyzed by CRS depend on the participation rate of individuals. Such rates, expressed as "percent of full participation," are influenced by two features of the plan: The rate at which employee payments to the capital accumulation plan are matched by employer payments, and the ceiling on employee contributions eligible for such matching dollars. Some employees will contribute the full amounts permitted by the plan specifications, others only some, still others not at all. The percent of full participation is the net average of full participation after all full, partial, and zero contributions have been combined.

The cost to the Federal Government of the capital accumulation plans is established by multiplying the matching rate specified for the plan by the estimated percent of full

participation. For example, Hay-Huggins, Inc., estimated that a plan with a 50-percent employer match of employee contributions to 6 percent of pay would acquire a 55-percent average full participation. Multiplying that rate by the maximum Government match (3 percent) yields a Federal Government cost for the plan of 1.65 percent of pay.

This proposal includes a capital accumulation plan in each option, and both options permit employees to contribute as much as 10 percent of their salaries into these arrangements. In option A, the first 5 percent of the employee contribution is matched dollar for dollar. In option B, the first 1 percent is matched dollar for dollar, percents 2 and 3 are matched by one-half the amounts, and percents 4, 5, and 6 are matched at a rate of one-fourth the amount of the employeee contribution. Hay/Huggins, Inc. estimates that in these options, the phased vesting of 20 percent per year for the first 5 years would reduce the cost to the Government approximately 0.03 percent, as employees who separated with less than 5 years of service lost portions of the matching amount.

Thus, in option A, at a 60-percent rate of full participation, employees would contribute an average of approximately 3.0 percent of salary, and the Federal Government's matching cost would be approximately 3.0 percent of pay. In option B, at a 44-percent rate of full participation, employees would contribute an average of 2.6 percent of pay and the corresponding government cost would be approximately 1.5 percent of payroll. Documentation of the method for arriving at the variable used for the capital accumulation plan cost assumptions is available from CRS.

II. Section-by-Section Analysis

SHORT TITLE

The opening section provides that the Act is to be known as the "Federal Retirement Reform Act of 1985".

SECTION 2. PURPOSES

This section indicates purposes of the legislation, which sets forth a new program of retirement, thrift-savings, survivors and disability benefits for those Federal civilian employees who are covered under Social Security. These purposes include providing employees with financial security through a retirement program that compares favorably with those found in the private sector, encouraging all employees to set aside funds for retirement, and giving employees more options as to career mobility and financial planning for retirement.

TITLE I—FEDERAL RETIREMENT SYSTEM ESTABLISHMENT

Title I establishes a new program of retirement and other benefits for most Federal civilian employees who are covered by Social Security. Because Social Security covers all employees newly hired

on or after January 1, 1984, this new program will gradually supersede the existing Civil Service Retirement System (CSRS).

Section 101(a)

This section adds a new Chapter 84 to Title 5, United State Code, after Chapter 83—Retirement, which continues to set forth the current Civil Service Retirement System. Chapter 84, entitled "Federal Retirement System", is subdivided as follows:

Subchapter I—Definitions; Federal Retirement System;
Subchapter II—Basic Plan;
Subchapter III—Thrift Savings Plan;
Subchapter IV—Survivor Benefits;
Subchapter V—Disability Benefits;
Subchapter VI—General and Administrative Provisions;
Subchapter VII—Transition Provisions;
Subchapter VIII—Federal Retirement Thrift Investment Management System.

SUBCHAPTER I—DEFINITIONS; FEDERAL RETIREMENT SYSTEM

This subchapter sets forth basic definitions used in this chapter, many of them identical or similar to those used in Chapter 83.

Section 8401. Definitions

Paragraph (1) defines a participant's or annuitant's "account" to mean the record of thrift plan funds held on that person's behalf.

Paragraph (2) defines "annuitant" to mean a former employee who has applied to receive an annuity under this chapter that he or she is entitled to receive.

Paragraph (3) defines "average pay" to mean the employee's highest average rate of basic annual pay, computed over 5 consecutive years, or over the period of total credited service if less than 5 years.

Paragraph (4) defines "basic pay" to mean a participant's basic rate of legally scheduled pay, subject only to the limits in sections 5308 and 5382(b) relating to statutory pay limits on General Schedule pay (Executive Level V) and Senior Executive Service pay (Executive Level IV) but not more than the rate for Level I of the Executive Schedule. This new definition of basic pay ensures that employee retirement benefits will not be restrained by appropriation limitations on the amount of pay that will be payable when the legal rate of pay is higher.

Paragraph (5) defines "Board" to mean the Federal Retirement Thrift Investment Board established under section 8491(a).

Paragraph (6) defines "Civil Service Retirement and Disability Fund" to mean the existing fund established under section 8348.

Paragraph (7) defines "court" to mean a Federal, State or Indian court, or a court of the District of Columbia, Puerto Rico or a U.S. territory or possession, having jurisdiction.

Paragraph (8) defines "Director" to mean the Director of the Office of Personnel Management (OPM).

Paragraph (9) defines "dynamic assumptions" to mean economic assumptions that reflect long-term future increases in wages and

prices and are used in determining actuarial costs for a retirement system.

Paragraph (10) defines "earnings" of the Thrift Savings Fund to mean the investment yield received or the gain realized.

Paragraph (11) defines "eligible former spouse" to mean someone who was married to a participant or former participant for at least 9 months.

Paragraph (12) defines "employee" to mean—

(A) an individual described in subparagraph (A), (E), (H), (I), or (J) of section 8331(1), relating to employees of a Federal Department or agency, U.S. Commissioners, employees of a county committee established under section 590h(b) of title 16, employees of Gallaudet College, staff members of a former President, certain aliens employed by foreign governments and serving the interests of the U.S., and employees of the U.S. Park Police and the U.S. Secret Service; and

(B) a congressional employee as defined in section 2107, including a temporary congressional employee;

provided that the individual had some period of Federal service covered under Social Security after 1983, excluding (1) persons designated by certain clauses of section 8331, relating to Federal justices or judges, employees covered by another Federal retirement system, certain temporary employees of the courts, certain employees of the Tennessee Valley Authority, certain student-employees and teachers employed during summer recess periods; (2) any individual excluded under section 8402(b)(2), relating to temporary or intermittent employees, (3) any individual covered by the Civil Service Retirement System on December 31, 1983 who has not had a break in service of more than 1 year after that date and who has not transferred into the new plan.

This definition no longer includes employees of the District of Columbia.

Paragraph (13) defines "Employee Advisory Committee" to mean the committee appointed under section 8493 of this title.

Paragraph (14) defines "Executive Director" to mean the individual appointed under section 8494(a)(1).

Paragraph (15) defines "firefighter" to mean an employee with rigorous firefighting duties that require young and vigorous individuals, as determined by OPM after considering the recommendation of the employing agency, and an employee who is transferred directly to a supervisory or administrative position after performing 10 years of actual firefighting duty. This is a more restrictive definition than under present law. The committee expects that OPM will review every position that an agency requests to be treated as a firefighter position and only authorize the usage of this definition where an employee in that position will actually and directly participate in firefighting activities. The committee added the caveat of supervisory and administrative positions to encourage upward mobility in career employment. However, to qualify for the definition, such employees in supervisory or administrative positions must have at least 10 years of actual firefighting duties.

Paragraph (16) defines "Fund" to mean the Civil Service Retirement and Disability Fund.

Paragraph (17) defines "Government" to mean the Federal Government and Gallaudet College.

Paragraph (18) defines "law enforcement officer" to mean an employee with rigorous law enforcement duties that require young and vigorous individuals, as determined by OPM after considering the recommendation of the employing agency, and an employee who is transferred directly to a supervisory or an administrative position after performing 10 years of actual law enforcement duty. This is a more restrictive definition than under present law. The limitations in the usage of this definition are similar to those for the firefighter definition. The committee expects far fewer positions to be defined as law enforcement positions than under current law. Frequent contact with criminals is an insufficient reason for a position to be defined as a law enforcement position.

Paragraph (19) defines "loss" with respect to the Thrift Savings Fund to mean loss experienced from the investment of sums in the Fund.

Paragraph (20) defines "lump-sum credit" to mean the same as in section 8331(8).

Paragraph (21) defines "Member" to mean a Member of Congress, except a Member who was serving in Congress on December 31, 1983 who has not transferred into the new plan.

Paragraph (22) defines "military reserve technician" to mean a military reserve member who is assigned to a civilian technical position which may be filled only by a military reserve member serving in a specified military grade. This definition includes national guard technicans.

Paragraph (23) defines "net earnings" of the Thrift Savings Fund to mean the excess of earnings over losses.

Paragraph (24) defines "net losses" of the Thrift Savings Fund to mean the excess of losses over earnings.

Paragraph (25) defines "normal cost" to mean the entry-age normal cost of retirement and related benefits, computed by OPM as a level percentage of basic payroll using generally accepted actuarial practices and standards including dynamic assumptions, i.e., assumptions that anticipate inflation in wages and prices. The normal cost as computed under this definition shall be used to value the cost of the retirement plan for all other administrative purposes.

Paragraph (26) defines "Office" to mean the Office of Personnel Management.

Paragraph (27) defines "participant" to mean an employee, a Member or person receiving disability benefits under this chapter.

Paragraph (28) defines "price index" to mean the same version of the Consumer Price Index that is used under Chapter 83.

Paragraph (29) defines "service" of a participant or former participant to mean—

(A) employment as a participant after December 31, 1986;

(B) employment subject to the interim plan;

(C) military service, as provided in section 8332(c) subject to section 8419(a);

(D) employment as a participant in the old plan, to the extent provided by section 8472(a); and

(E) leave without pay as treated under the current system.

Service is computed as full years and twelfth parts thereof, excluding fractions of months.

Paragraph (30) defines "supplemental liability" to mean the actuarial value of future benefits that is not covered by normal cost contributions under section 8418(a) or by assets of the Fund. Contributions made by agencies under the interim arrangement to CSRS will be credited to the FRS for the purpose of determining this liability. In addition, the Office will credit any excess unfunded liability payments made by the Postal Service for employees who transfer form CSRS to the new plan.

Paragraph (31) defines "System" to mean the Federal Retirement System described in section 8402.

Section 8402. Federal Retirement System; participation

Subsection (a) states that the provisions of Chapter 84 constitute the Federal Retirement System (FRS).

Subsection (b) states that all employees and Members are participants in the FRS except temporary or intermittent employees who are excluded by OPM, the Architect of the Capitol or the Librarian of Congress.

Section 8403. Relationship to the Social Security Act

This section states that all benefits payable under the system are in addition to Social Security benefits, except as otherwise provided.

SUBCHAPTER II—BASIC PLAN

Subchapter II describes the basis annuity plan, which is a defined-benefit plan covering all permanent employees who were hired or rehired after December 31, 1983 and Members of Congress who began service after such date and were subject to Social Security on or after January 1, 1984, and any employees or Members subject to the CSRS who elect to transfer to the new plan.

Section 8411. Entitlement to immediate retirement

This section sets forth the various age and service requirements for an employee's or Member's entitlement to immediate retirement benefits, computed under section 8413 through 8415.

Subsection (a) provides for immediate retirement benefits at age 55 with 10 years of service.

Subsection (b) provides for immediate retirement benefits at age 62 with 5 years of service.

Subsection (c) provides for immediate retirement benefits at age 50 for a law enforcement officer or firefighter who has served in one or both occupations for 20 years, or at any age after serving for 25 years. The mandatory retirement ages under CSRS for these occupations are applicable in this plan.

Subsection (d) provides for immediate retirement benefits at age 50 for an air traffic controller who has served in such an occupation for 20 years, or at any age after serving for 25 years. The mandatory retirement age under CSRS for an air traffic controller is applicable in this plan.

Subsection (e) provides for immediate retirement benefits at age 50 for an employee with 20 years of service or at any age after 25 years of service, in the case of an employee, other than a law enforcement officer, firefighter or air traffic controller, who—

(A) is involuntarily separated except for cause and has not declined a reasonable offer of employment within two grades or pay levels which is within the employee's agency and commuting area, or

(B) is voluntarily separated while serving in a geographic area designated by OPM, from an agency undergoing a reduction in force or reorganization where a significant percentage of employees are downgraded or separated.

Subsection (f) specifies that annuities under this section are computed under section 8413, 8414 and 8415.

Subsection (g) provides that a former employee or Member entitled to workers' compensation benefits under subchapter I of chapter 81 is not entitled to an annuity while receiving such benefits.

Section 8412. Entitlement to deferred retirement

This section sets forth the various age and service requirements for an employee's or Member's entitlement to deferred retirement benefits, computed under sections 8413 through 8415.

Subsection (a) provides that a participant who leaves Government employment, while under age 55 and with 10 or more years of service, may elect deferred retirement benefits that begin at any age between 55 and 62, as the participant elects.

Subsection (b) provides that a participant who leaves Government employment, while under age 62 and with 5 years but less than 10 years of service, may elect deferred retirement benefits that begin at age 62.

Subsection (c) provides that an annuity authorized under this section is computed under sections 8413, 8414, and 8415.

Subsection (d) states that someone receiving benefits under the Federal Employees Compensation Act, chapter 81, is not entitled to an annuity from the basic plan while receiving such benefits.

Section 8413. Computation of annuity

This section provides the basic formula for computing the annuity a participant is entitled to receive. This formula does not reflect possible adjustments for reduced early retirement benefits or election of a survivor annuity or for cost-of-living increases.

Subsection (a)(1) gives the basic annuity formula under both options—.9 percent of the employee's average pay multiplied by the number of years service which does not exceed 15 years; 1.1 percent multiplied by the number of years of service more than 15 years, except as provided in subsection (a)(2).

Subsection (a)(2) provides the special annuity formula of one percent times the years of service for a law enforcement officer, firefighter, air traffic controller, or military reserve technician.

Subsection (a)(3) provides that unused sick leave is counted as additional service under this formula, to the same extent as provided in section 8339(m), if the employee retires entitled to an immediate annuity or dies leaving a survivor or survivors entitled to a survi-

vor annuity. The unused sick leave is not counted toward the service needed to become entitled to an immediate or deferred annuity.

Subsection (b) provides for an annuity supplement to individuals retiring after at least 25 years service or at age 50 with 20 years of service as a law enforcement officer, firefighter, or air traffic controller, payable from retirement until age 62. The intention is that the amount of the individual's benefits will not change appreciably when payment of this supplement stops at the time the retired employee reaches age 62 and Social Security first becomes payable. The annuity supplement is the estimated Social Security amount, computed from the employee's covered earnings in one or more of the above occupations as if he or she were then 62 years old. The supplement should equal the amount of Social Security benefits that the employee is projected to receive at age 62 multiplied by the ratio of covered earnings attributable to such occupation over total covered earnings. This amount is increased each year by the percentage increase, if any, in the average wage index published by the Social Security Administration.

Subsection (c) provides that a year of part-time service will be treated proportionately as a fraction of a year in the annuity formula, with 5-year average pay based on the full-time rate of pay. The committee intended that an annuity computed under this section accurately reflect the amount of service of an annuitant. The committee also believes that part-time work should be a viable option for workers reaching or nearing retirement. This provision does not contain the current financial penalties that exist under the CSRS for employees who change from full-time to part-time employment.

Section 8414. Reduction for early retirement

This section provides for reduction percentages that apply to annuities when employees retire early and elect to begin receiving benefits before the normal retirement age. It also provides for exceptions to the early retirement reduction for certain annuitants.

Subsection (a)(1) provides that a 2-percent reduction factor applies for an annuitant who retires between ages 55 and 62 after 30 or more years of service other than a law enforcement officer, firefighter, air traffic controller, military reserve technician as specified in paragraph (3)(A) and in subsection (c) of this section), and an annuitant who elects to make contributions under section 8418(c). Benefits are reduced by 2 percent per year (one-sixth of 1 percent for each month) by which the benefit commencement date precedes age 62. This 2-percent reduction factor also applies to benefits for involuntary retirement under section 8411(e).

Subsection (a)(2) provides that a 5-percent reduction factor applies to voluntary early retirement benefits commencing before age 62 when the employee has less than 30 years of service. Benefits are reduced by 5 percent per year (five-twelfths of 1 percent for each month) by which the benefit commencement date precedes age 62.

Subsection (a)(3) provides that a 2-percent reduction factor applies to involuntary retirement benefits commencing before age 55 for a military reserve technician. Benefits are reduced by 2 percent

per year (one-sixth of 1 percent for each month) by which the benefit commencement date precedes age 55).

Subsection (b)(1) provides that the annuity reductions in subsection (a) shall not apply to law enforcement officers, firefighters and air traffic controllers as provided in section 8411 (c) and (d).

Subsection (b)(2) provides that subsection (a) shall not apply to an annuitant who elected to make contributions under section 8418(c), did not receive a refund of such contributions, is at least 55 years of age, and has completed 30 years of service.

Subsection (c) provides that subsection (a)(1) shall not apply to a participant who separates from Government employment as a military reserve technician after becoming age 55 and completing 30 years of service.

Section 8415. Reduction for survivor annuities

Subsection (a) provides that an annuitant's annuity computed under section 8413 or 8414 shall be reduced by 10 percent for each survivor annuity which could be payable out of the Fund with respect to the annuitant. For example, if the annuitant has elected two survivor annuities for two potential survivors, the total reduction is 20 percent, and the annuity is paid at 80 percent of the unreduced amount.

Subsection (b)(1) provides that a reduction of an annuity for the purpose of providing a survivor annuity will be adjusted in the case of an annuitant who elected to make contributions under section 8418(c) and has not received a refund, to reflect any change in circumstances relating to entitlement to a survivor annuity. Such a change includes the annuitant's marriage or remarriage after retirement, with the new spouse eligible for a survivor annuity elected under section 8434, or election of a survivor annuity for a former spouse under section 8436.

Subsection (b)(2) provides that an adjustment under paragraph (1) of this subsection may not be made in the case of an annuitant not described in such paragraph.

Section 8416. Methods of payment

The basic annuity, computed as described in section 8413 and reduced for early retirement as described in section 8414, is paid to the retired employee for life in a constant amount subject only to cost-of-living adjustments, unless benefit payments are elected under some other method. Certain other methods may be elected by the employee, with the consent of the employee's spouse or former spouse in some situations.

Subsection (a)(1) provides that OPM shall prescribe methods of payment of annuities.

Subsection (a)(2) provides that these methods will include but not be limited to monthly annuities payable (A) to the retired employee only for life, (B) to the retired employee for life and thereafter in an amount that is 50 percent of the annuity to the retired employee's surviving spouse without regard to any survivor annuity reductions under section 8415 or election under 8417(a), and (C) to the retired employee for life and thereafter in an amount that is 50 percent of the annuity, computed without regard to an election

under 8417(a), to a designated individual who has an insurable interest in the annuitant.

Subsection (b)(1) provides that employees or former employees must elect one of these alternative methods of payment when applying for an annuity. Subsection (b)(2) provides that a participant may select a method of payment other than the joint and survivor method in (a)(2)(B) only if both the employee or former employee and spouse sign an irrevocable written waiver of that method before that annuity commences.

Subsection (b)(3) provides that a joint and survivor annuity shall be paid as described in (a)(2)(B) in the case of an annuitant who fails to make an election under (b)(1).

Subsection (b)(4) provides that an employee may not designate another individual to be eligible for a survivor annuity under subsection (a)(2)(c) unless the employee is in good health, as determined by OPM.

Section 8417. Level benefits option

Subsection (a) provides for an employee who retires before age 62 with an immediate annuity to convert it to an optional annuity in an amount that is higher up to age 62, and lower after age 62 as provided in subsection (b).

Subsection (b)(1) provides that the amounts payable under this level benefits option are computed so that at attainment of age 62 the total benefits including social security remain level, as nearly as is practical.

Subsection (b)(2) provides that the option is an actuarial equivalent, i.e., the value of all benefits payable under the option is equal to the value of the benefits payable if the option were not elected.

Section 8418. Contributions

Subsection (a) provides that each agency will contribute to the Fund the normal cost of benefits for that agency's employees, as determined by OPM using dynamic assumptions, including the cost of annuity supplements under section 8413(b). The normal cost computation paid by each agency will be reduced by the normal cost attributable to military service since the Department of Defense will pay for that under section 8419. The contributions will be made from salary appropriations or certain other funds. For subsection (a) and (b), the committee intends for OPM to credit the agencies for normal cost and supplemental liability payments from contributions paid during the Federal Employees Retirement Contribution Temporary Adjustment Act of 1983, and from any excess unfunded liability payments made by the Postal Service for pre-1984 employees who transfer to the new plan.

Subsection (b)(1) provides that each fiscal year OPM will compute the supplemental liabilities attributable to employees of the U.S. Postal Service and to non-Postal employees separately.

Subsection (b)(2) provides that these supplemental liabilities will be amortized in 30 annual installments.

Subsection (b)(3) provides that each year OPM will notify the Secretary of the Treasury and the Postmaster General of the amount of the annual installment payable by them to amortize the liability.

Subsection (b)(4) provides that the Secretary of the Treasury and the Postmaster General shall pay to the Fund the annual installment due as determined under subsection (b)(3) before the close of each fiscal year.

Subsection (b)(5) provides that OPM may require the Board of Actuaries of the Civil Service Retirement System to make actuarial valuations and determinations, make recommendations, and maintain records in the same manner as provided in section 8437(f), relating to data used in making periodic actuarial valuations of the CSRS. OPM may use the Board of Actuaries' valuations and determinations.

Subsection (c)(1) provides that a participant may elect to contribute to the Fund. An election, which is irrevocable, must be made within 60 days after the participant first becomes a participant.

Subsection (c)(2) provides that for an employee who elects to contribute to the Fund under (c)(1), the amount withheld from the basic pay is equal to the difference between 7 percent of basic pay and the amount of Social Security tax withheld for old age, survivor and disability insurance.

Subsection (c)(3) provides that the amounts withheld shall be deposited in the Treasury of the United States to the credit of the Fund.

Subsection (c)(4) provides that a participant who elects to contribute to the Fund shall agree to the deductions required in (2).

Subsection (c)(5) provides that section 8334(d) applies to refunds of amounts deducted as required by paragraph (2) of this subsection.

Subsection (c)(6) provides that a law enforcement officer, firefighter, air traffic controller, and military reserve technician may not make an election under paragraph (1).

Subsection (d) provides that under regulations prescribed by OMB, the head of an agency may request a reconsideration of the amount of the normal cost and supplemental liability computed by OPM under subsection (a) or (b). The Board of Actuaries of the Civil Service Retirement System shall review the computation and, if appropriate, recompute the amount. The determination of the Board of Actuaries shall be final. The committee intends for the Board of Actuaries to serve in an appeal capacity in this regard.

Section 8419. Funding of annuity attributable to military service.

Subsection (a) provides that participants get credit for military service under this plan as provided in 8332(c), unless they have transferred from the CSRS as provided in 8471(a)(1)(A). No deposit is required from the employee. Employees who transfer from CSRS may receive credit under CSRS for military service by making a deposit as provided in 8334(j).

Subsection (b) provides that the Secretary of the Treasury is to reimburse the Fund from Department of Defense appropriations annually for the normal cost relating to military service of people who join this plan during such fiscal year.

Subsection (c) provides that OPM shall compute the amount required in (b) and notify the Secretary of the Treasury.

Section 8420. Lump-sum benefits; designation of beneficiary; order of precedence

Subsection (a) provides that a participant who has elected to make contributions to the Fund under section 8418(c) may be paid the portion of the lump-sum credit attributable to his or her contributions and interest. The participant must be separated from Government employment for at least 31 consecutive days or be transferred to a position not subject to this subchapter. He or she must apply to OPM for the refund and may not receive it if reemployed in a position subject to this subchapter when the application is filed, or if eligible ot receive an annuity within 31 days after filing.

Subsection (b) provides that a participant or former participant may designate a beneficiary or beneficiaries for purposes of this subchapter.

Subsection (c) provides that lump-sum benefits shall be paid to survivors of the participant who are alive when title to the payment arises. It provides that order of precedence for entitlement to payment shall be the same as provided in 8342(c).

Subsection (d) provides for payment of the lump-sum refund to be paid as provided in (c) if the participant or former participant dies without a survivor.

Subsection (e) provides that if annuity rights of a deceased participant and any survivors terminate before the total annuity payments equal the total lump-sum credit, the difference shall be paid as prescribed in subsection (c).

Subsection (f) provides that if an annuitant dies, the accrued and unpaid annuity shall be paid as provided in subsection (c).

Subsection (g) provides that accrued and unpaid annuity on the termination of the annuity or survivor annuity shall be paid to the individual. On the death of a survivor annuitant, accrued and unpaid annuity will be paid in the same order of precedence as in section 8342(g).

Subsection (h) provides that payment of the lump-sum credit may be made only after notification to current and former spouses and subject to court orders regarding former spouses.

Subsection (i) provides that interest on the lump-sum credit shall be compounded annually at the rate computed under section 8334(e)(3).

Subsection (j) provides that payment of the lump-sum credit voids all rights under this chapter which result from the election to make contributions under 8418(c).

SUBCHAPTER III—THRIFT SAVINGS PLAN

This plan is financed by employee contributions and by matching employer contributions. The plan is patterned after those found among large employers in private industry. It includes many features that have proved popular among employees and have achieved excellent investment results at low cost. It is modified as necessary to accommodate a public employee benefit program that must also have broad acceptance among the general public.

Section 8421. Contributions

Subsection (a)(1) provides that at the point an employee chooses to contribute to the Fund under section 8418(c) or within 60 days of commencement of employment, he or she may contribute up to 10 percent of pay to the thrift plan in any year.

Subsection (a)(2) provides employees receiving disability benefits under the new plan may contribute up to 10 percent of such benefits in any year they receive such benefits.

Subsection (a)(3) permits employees to contribute unused portions of prior year allowable contributions to the thrift plan up to a total employee contribution of 15 percent of pay in any 1 year. Unused amounts from prior years are not matched.

Subsection (a)(4) provides that contributions will be made under a regular program regulated by the Executive Director.

Subsection (a)(5) provides that employees will be given the opportunity to change their level of contributions at least once a year, as regulated by the Executive Director. The committee intends that the contributions will normally be a flat percentage of pay, but other arrangements may be allowed as administratively feasible, for example contributions that are coordinated with the Social Security payroll tax, which stops when the employee's pay during the year reaches the maximum amount taxable, $39,600 in 1985.

Subsection (b)(1) provides that the employee's agency will make contributions to the fund for the benefit of the employee or disabled participant at the end of each pay period.

Subsection (b)(2) provides that agency's contribution will match contributions up to 5 percent of employee pay at a dollar-for-dollar rate, except that for employees who also have elected to make a contribution under section 8418(c), the agencies will match contributions up to 1 percent of employee pay at a rate of a dollar for dollar, percents 2 and 3 at a rate of 50¢ on a dollar and percents 4, 5, and 6 at a rate of 25¢ on a dollar.

Subsection (c) provides that the matching agency contributions are derived from salary appropriations or from certain other funds.

Subsection (d)(1) provides that the amounts of pay contributed by employees, and the matching employer contributions, are not included in the employee's current gross income for Federal income tax purposes. These amounts, and investment return on such amounts, will instead be treated for tax purposes as described in Section 401(a) of the Internal Revenue Code, relating to tax-qualified pension and profit-sharing plans.

Subsection (d)(2) provides that this tax treatment will not apply in any taxable year with respect to which section 402(a)(8) of the tax code does not apply to contributions made to any qualified cash or deferred arrangement within the meaning of section 401(k) of the tax code. Thus, if the waiver of the constructive receipt doctrine embodied in section 402(a)(8) with regard to salary reduction plans is changed or eliminated, such a change will be applicable to the tax treatment of this plan. The committee strongly believes that Federal employees should be treated similarly to employees in private industry for this purpose.

Subsection (e) provides that these amounts of pay are included in wages, for purposes of payroll taxes under the Federal Insurance

Contributions Act and crediting under the social security benefit procedures, to the same extent as cash compensation to the employee.

Section 8422. Vesting

Subsection (a) provides that a participant who leaves Government employment is entitled to his or her own contributions to the plan, and the vested portion of the employer matching contributions as indicated in subsection (b), plus any gain, or minus any loss, from investment of the employee contributions and the vested portion of the employer match. The resulting amount is paid according to the employee's election under section 8423.

Subsection (b) provides a table indicating the percentage of employer matching contributions that is vested, based on the number of completed years of the employee's participation in the new plan—

Number of completed years	Percentage
Less than 1 year	0
1 but less than 2 years	20
2 but less than 3 years	40
3 but less than 4 years	60
4 but less than 5 years	80
5 or more years	100

An employee who dies while in Government service is 100 percent vested. An individual making contributions during a period of disability gets credit toward vesting for the period in which he or she was contributing.

Subsection (c) provides for disposition of any amounts remaining in the account of a participant who is less than 100 percent vested and elects to receive payment under section 8423(c). In that event the remaining balance for the year in which the election is made is first used to pay administrative expenses of the Thrift Plan incurred during such year. Any part of this balance remaining after payment of administrative costs in any year reverts to the Treasury.

Section 8423. Entitlement and elections relating to entitlement

This section specifies the options a participant has to withdraw his or her funds from the plan upon leaving Government employment. The options available depend on the participant's retirement status under the basic pension plan set forth in subchapter I.

Subsection (a)(1) states that a participant entitled to an immediate annuity under the basic plan, a benefit recipient under chapter 81 of this title, or a participant entitled to disability benefits from this plan has four options under the thrift plan:

(A) an immediate annuity,

(B) a deferred annuity,

(C) withdrawal of the thrift plan funds in one or more payments, or

(D) rollover of the funds to an individual retirement account (IRA) or to a qualified pension plan.

Subsection (a)(2) provides that a disabled participant may make an irrevocable election of one of these options only within 1 year of the disability date.

Subsection (b) states that a participant entitled to a deferred annuity under the basic plan has four options under the thrift plan:

(1) a deferred annuity, commencing when the employee first could receive a deferred annuity under the basic plan,

(2) a deferred annuity, commencing at a date after the employee first could receive a deferred annuity under the basic plan,

(3) withdrawal of the thrift plan funds in one or more payments, commencing on or after the date the employee first could receive a deferred annuity under the basic plan, or

(4) rollover of the funds to an individual retirement account (IRA) or to a qualified pension plan upon separation from Government employment.

Subsection (c) states that a participant not entitled to any annuity under the basic plan has two options under the thrift plan:

(1) withdrawal of the thrift plan funds in one or more payments, commencing at age 62, or

(2) rollover of the funds to an individual retirement account (IRA) or to a qualified pension plan upon separation from Government employment.

Subsection (d) provides that a participant who has elected a deferred annuity from the thrift plan to commerce at a date later than the earliest possible date, may modify the election and choose an earlier date.

Section 8424. Annuities; methods of payment; election; and computation

Subsection (a) provides that the Board which administers the thrift plan will prescribe methods of payment of annuities, which will include at least the following five monthly annuity methods:

(A) payable to the annuitant for life in a level monthly amount,

(B) payable to the annuitant and spouse while both are alive in a level monthly amount, and to the survivor for life in an appropriate amount,

(C) payable as in method (A) but with annual increases,

(D) payable as in method (B) but with annual increases, and

(E) payable to the annuitant during the joint lifetime of the annuitant and a designated individual who has an insurable interest in the annuitant's life, and to the survivor for life.

Subsection (b) provides that an employee electing to receive an annuity from the thrift plan must elect one of the methods specified in subsection (a) before the date the annuity is to begin.

Subsection (c) provides that the amount of annuity available from the thrift plan will be determined by regulation on an actuarial basis.

Section 8425. Administrative provisions relating to payments and elections

The Executive Director will arrange for payout of thrift plan benefits and will issue regulations giving the procedures for electing to receive benefits. Such elections may not violate the terms of applicable court orders as to dissolution of marriage or property settlement.

Section 8426. Thrift Savings Fund

This section describes the way the Government will account for the thrift plan funds being held on behalf of the participants.

Subsection (a) establishes a Thrift Savings Fund in the Treasury of the United States.

Subsection (b) states that the Thrift Savings Fund contains all the contributions plus the net earnings or minus the net losses from investment of the contributions, reduced by payouts from the fund.

Subsection (c) makes the Thrift Savings Fund available for thrift plan purposes—to invest, pay benefits, pay administrative expenses, make loans to participants, and purchase insurance as provided in section 8499.

Subsection (d) provides that except as otherwise provided by Federal law, sums in the Thrift Savings Fund may not be assigned and are not subject to legal process, except for amounts being paid to individuals who legally owe payments for child support, alimony or debts to the Government.

Subsection (e) states that the Board will establish a program of loans to a participant in the event of financial hardship, using the sums held in an employee's account derived from the employee's contributions and net investment earnings. The program will be subject to the same conditions prescribed by section 408(b)(1) of ERISA.

Subsection (f) states that the Thrift Savings Fund may be used only for the purposes specified in this section.

Section 8427. Investment of Thrift Savings Fund

This section specifies how the thrift plan funds are invested, as designated by individual participants with respect to funds held on their behalf, subject to certain restrictions during the plan's first 10 years. The investments are patterned after those which have proven successful in private plans in recent years, offering employees a carefully selected and limited choice of investments either within the Government or in the private sector, and in either fixed income or equity (common stock) investments.

Because this is a Government plan, and so must have broad acceptance among the general public as well as employees, the private sector investment options are designed to minimize decision-making by the Government that might not allow private investment markets to maintain their stability and objectivity.

The fixed income investments are intended to be highly secure debt instruments which guarantee a specified rate of return. The equity investments use a common stock index fund, which provides a broad cross-section of the stock market in a way that adjusts automatically for changing conditions and securities prices; index funds are widely used in private plans because of their simplicity, very low administrative costs and proven ability to provide good investment results.

By offering only a few alternative choices of investment funds, just as private plans do, this plan uses its size and mass purchasing power to make the funds available for investment work harder and more effectively than is otherwise possible, and avoids turning the

workplace into a marketplace where numerous promoters will contact employees to sell them investment products.

Subsection (a) defines terms relating to thrift plan investments:

(1) The "Common Stock Index Investment Fund" is one of the three optional investment funds established under this section, providing for common stock investments.

(2) The term "equity capital" is defined for use in specifying minimum size requirements for certain asset managers.

(3) The "Fixed Income Investment Fund" is another of the three optional investment funds established under this section, providing for fixed-income investments in the private sector.

(4) The "Government Securities Investment Fund" is another of the three optional investment funds established under this section, providing for investment in Government securities whose interest rates are tied to the average rate of long-term Government securities.

(5) The term "net worth" is defined for use in specifying minimum size requirements for certain asset managers.

(6) The term "plan" means an employee benefit plan, as defined in the Employee Retirement Income Security Act of 1974 (ERISA).

(7) The term "qualified professional asset manager" is defined as in regulations of the Department of Labor under ERISA, and includes an entity that can legally serve an employee benefit plan and that meets minimum size requirements, in any of four classes—

(A) a bank,

(B) a federally insured savings & loan association,

(C) a State-licensed insurance company, or

(D) a federally registered investment advisor.

(8) The term "shareholder's or partner's equity" is defined for use in specifying minimum size requirements for certain asset managers.

Subsection (b)(1) provides that the Board administering the plan will establish at least three alternative funds for investment of thrift plan funds—

Fund A, the Government Securities Investment Fund, invests in U.S. Government securities;

Fund B, the Fixed Income Investment Fund, invests in insured contracts, certificates of deposit or other securities which guarantee the return of principal plus a specified rate or rates of interest over a certain period of time;

Fund C, the Common Stock Index Investment Fund, invests in common stocks according to an index as specified in subsection (b)(2).

The Board may establish additional funds as appropriate.

Subsection (b)(2) describes the operation of the Common Stock Index Fund. First, the Board will define an index representing a broad cross-section of the stock market. The index may consist of either: all of the stocks listed on one or more national exchanges and over-the-counter securities quoted publicly on an automated basis; or a commonly recognized index comprising common stock which has an aggregate market value which is as complete a representation of the U.S. equity markets as is reasonably practicable.

Second, the Common Stock Investment Fund is simply invested in all of the stocks making up the index, with a percentage of the fund invested in given stock equal to the percentage of the index represented by that stock as computed from the aggregate market values of the respective stocks or in a sampling of stock designed to replicate the performance of the defined index. Third, the Executive Director may exclude certain stocks from the index based upon a recommendation from the Employee Advisory Committee on reasons other than the standards in section 8495.

Subsection (c) provides that the Executive Director shall invest moneys in the Government Securities Fund that are not directed by employees into other funds. Thrift plan funds available for investment will go to the Government Securities Investment Fund when required by the limitations applying during the plan's first 10 years, or when participants have not elected to use one of the other funds.

Subsection (d) outlines the procedures for participants to elect the funds in which their accounts will be invested. A participant is allowed to make such an election at least once a year, subject to the limitations in subsection (e), in accordance with regulations of the Executive Director. Participants may move all of their moneys out of one fund to another during these periods with the exception of moneys mandated to be in Government securities. The participant is given a specified period of time to make the annual election after being sent an annual statement of his or her account in accordance with subsection 8428(b). Finally, the participant must sign an acknowledgment when investing in funds other than the Government Securities Fund that the participant understands that the investment is made at the participant's risk and that returns on the other funds are not federally guaranteed.

Subsection (e) describes the limitations on thrift plan investments during the plan's first 10 years, intended to avoid sudden administrative, financial, or budgetary impacts. During these years a certain minimum percentage of the contributions to a participant's account must go to the Government Securities Investment Fund—

Calendar year	Minimum percentage of each participant's contributions that go into Government securities	
	Employee contributions	Employer contributions
1987	100	100
1988	80	100
1989	60	100
1990	40	100
1991	20	100
1992	0	100
1993	0	80
1994	0	60
1995	0	40
1996	0	20

Contributions by or on behalf of a disabled participant are also subject to these limits. Amounts contributed during the transition period to the new plan (1984–86) and used to establish account bal-

ances at January 1, 1987, as provided by section 8473(b), must also go into the Government Securities Investment Fund. Amounts allocated to the Government Securities Investment Fund in accordance with these limits, or interest earned on such amounts must be reinvested in such fund even after the earlier securities mature.

Subsection (f) provides that the Secretary of the Treasury is authorized to issue special interest-bearing obligations of the United States for purchase by the Thrift Savings Fund. Maturities will be fixed with due regard for the needs of the fund. The average market rate shall be computed by the Secretary of the Treasury on the basis of market quotations as of the end of the month preceding the date of issue of all marketable interest-bearing obligations then forming a part of the public debt which are not due or callable for 4 years. Such average market yield shall be rounded to the nearest multiple of one-eight of 1 percent. This arrangement ensures that the fund will receive yields associated with long-term bonds but not tie the fund down with bonds that cannot be bought or sold fairly frequently. Investing the money in special issues rather than marketable securities keeps the funds on budget.

Section 8428. Accounting

Subsection (a) provides that an account is maintained for each participant of the funds held on his or her behalf. These funds are derived from contributions to the thrift plan by the employee and employer, and from transfers of funds on January 1, 1987 from the temporary plan in effect during 1984–86, reduced by amounts paid out as permitted by the plan. Each account is also credited with a proper share of the net investment earnings and losses, and is reduced by its share of the administrative expenses incurred under subchapter VIII. An employee's account will be increased or reduced by investment performance in the funds in which the employee participates, allocated by the proportion of the moneys invested in a particular fund to the total moneys of the account.

Subsection (b) provides that each participant gets an annual statement of his or her account.

Subsection (c) provides that the participants' accounts and the other books and records of the plan are audited annually by a qualified public accountant, with the accountant providing a written report and determination to the Board and the General Accounting Office regarding the audit using the same standards that apply to audits under ERISA.

SUBCHAPTER IV—SURVIVOR BENEFITS

The entire plan provides benefits to survivors of deceased employees and former employees from several sources:

(1) Social Security pays monthly benefits to the surviving spouse and children of a deceased worker, as specified by existing law;

(2) basic plan survivor benefits pay annuities to surviving spouses, former spouses or other designated individuals with an insurable interest, typically in the amount of 50 percent of the annuity payable during the lifetime of a retired worker, as provided in this subchapter; and,

(3) thrift plan survivor benefits pay out the deceased worker's vested account balance under the payment method elected to the surviving spouse, former spouse, other designated individual with an insurable interest or estate, as provided in this subchapter.

Section 8431. Basic plan spousal benefits relating to the death of a participant or former participant other than an annuitant

Subsection (a)(1) provides for immediate payment of basic survivor benefits to the surviving spouse of a deceased employee who had at leat 18 months of service.

Subsection (a)(2) states that the amount of the survivor annuity is 50 percent of the employee's reduced annuity, computed as if the employee had retired just prior to death on the basis of service to that point. The reduced annuity is the greater of: the deceased participant's earned annuity, computed in accordance with section 8413 and reduced for early retirement as provided in 8414, as appropriate, without regard to the 10 percent reduction for election of a survivor benefit; or 65 percent of the amount computed as provided in 8413 without applying the reductions for early retirement and election of a survivor benefit, except as provided in subsection (a) (3).

Subsection (a)(3) provides that the surviving spouse of a participant who elected to make contributions under section 8418(c) and did not receive a refund of these contributions receives 50 percent of the employee's annuity, without any reductions for early retirement or election of the survivor benefit and without regard to election of the level benefits option.

Subsection (b)(1) provides for immediate payment of basic survivor benefits to the surviving spouse of a deceased former employee eligible for a deferred annuity that had not yet commenced.

Subsection (b)(2) states that the amount of the survivor annuity is 50 percent of the former employee's annuity, computed as if the former employee had elected for the annuity to commence just prior to death if he or she were then eligible to so elect, and otherwise as if the former employee were 55 years old just prior to death.

The annuity is based on the greater of the earned annuity, computed in accordance with section 8413 and reduced, as appropriate, as provided in 8414, without the reduction for election of a survivor benefit, or 65 percent of the amount computed without applying the reductions for early retirement or election of a survivor benefit and without regard to election of the level benefits option. If the former participant had elected to make contributions under section 8418(c) and had not received a refund of these contributions, the surviving spouse receives 50 percent of the annuity, without any reductions.

Subsection (c) provides that the survivor annuity of a participant or former participant who dies with less than 10 years of service will be computed using service of 10 years.

Section 8432. Basic plan spousal and insurable interest benefits relating to the death of an annuitant

This section provides for payment of basic survivor benefits after the death of an annuitant to the individual eligible to receive such benefits, in accordance with the election made by the annuitant either explicitly or implicitly under the four relevant provisions:

(1) Section 8416 provides that an annuitant may elect one of the standard methods of payment when benefits commence.

(2) Section 8416(b)(3) provides that a married employee who retires is automatically deemed to elect the 50-percent survivor annuity method unless both spouses reject that method in writing.

(3) Section 8434(a) provides that an annuitant who marries or remarries after retiring may elect a survivor annuity under certain conditions.

(4) Section 8436(c) provides that an annuitant whose former spouse loses some or all entitlement to a survivor annuity, because of the former spouse's death or remarriage, may make an election under certain conditions.

Section 8433. Survivor benefits under the thrift savings plan

Subsection (a) provides for payment of benefits to the survivor of a decreased annuitant who was receiving payments from the thrift plan. The survivor annuity is payable on an actuarial basis in accordance with regulations, based on the method of payment elected by the annuitant under section 8424(b), relating to elections that are allowed under the thrift plan when benefit payments commence, or under section 8434(a) or 8436(c), relating to elections that are allowed after benefit payments commence.

Subsection (b) provides for payment of benefits to the survivor of an employee or former employee who died before his or her basic annuity payments commenced, to the extent that the account balance was vested in accordance with section 8422. Payment is made to the surviving spouse in accordance with a method elected under subsection (c), except as provided in subsection (d) relating to former spouses. If there is no surviving spouse, payment may be made to a designated individual with an insurable interest, or to the estate if no individual has been properly designated.

Subsection (c) provides that a surviving spouse or another individual entitled to payments under subsection (b) may elect one of three possible methods.

(1) payment of monthly annuity for life,

(2) transfer of the account balance to an individual retirement account (IRA), or

(3) withdrawal of the account balance in one or more payments. Subsection (d) gives first priority to payments under section 8435, relating to former spouses. Any amounts required for former spouses are deducted from payments to a later spouse under subsection (b) and held separately, until they are required to be paid to the former spouse or until they can be distributed to the later spouse when the former spouse's entitlement to survivor benefits is terminated by death or remarriage.

Section 8434. Basic and thrift savings plan survivor benefits relating to marriage after commencement of an annuity

Subsection (a) allows an annuitant to make an irrevocable election of survivor benefits for a spouse of a marriage that occurs subsequent to the annuitant's retirement under the methods provided in the basic and thrift plans, provided election is made within 2 years after the marriage, subject to the conditions in subsections (b), (c) and (d).

Subsection (b) requires that the election take effect no earlier than 9 months after the date of the marriage.

Subsection (c) provides that, within 2 years after electing a basic survivor benefit, the annuitant must deposit into the Fund the estimated amount by which his or her annuity payments to date would have been reduced if a basic survivor benefit method had been in effect, plus interest as provided in section 8438(a) relating to rates of interest on deposits.

Subsection (d) states that the election described in this section may not be made in the case of a remarriage, if the annuitant had been married earlier to the same spouse and both spouses had waived the right to survivor benefits under section 8416 (b) (2).

Section 8435. Survivor benefits for eligible former spouses: entitlement; amount

This section provides for designation of a former spouse to receive survivor benefits from the basic and thrift plans.

Subsection (a) provides for payment of benefits to former spouses of deceased employees who were participants or former participants, if the benefits were expressly provided by an election under section 8436 or a court order or decree dissolving or annulling the marriage, and subject to subparagraphs (b) through (g).

Subsection (b) provides that the amount of basic survivor annuity to a former spouse may not exceed 50 percent of the basic annuity payable to the employee less the amount of basic survivor annuity payable to any other former spouses who have a higher priority based on the order of precedence set forth in subparagraph (d). The amounts are computed in accordance with sections 8416(a)(2)(B), 8431(a), and 8431(b) depending upon whether the deceased was an employee, annuitant or former employee with entitlements to a deferred benefit.

Subsection (c) provides that the employee may not allocate more than 100 percent of his or her account balance under the thrift plan to provide survivor annuities for former spouses, including anticipated interest on the account.

Subsection (d) provides that the limitations on amounts of benefits in subsections (b) or (c) are implemented on a first-come, first-served basis by reference to the date of election or court order.

Subsection (e) provides that the survivor annuity to the former spouse may not begin before the election or court order is received by OPM or the participant dies, whichever is later, and it may not continue beyond the former spouse's remarriage before age 55 or death.

Subsection (f) provides that a court order or decreee is not effective if it is inconsistent with a joint waiver of rights to survivor benefits executed earlier.

Subsection (g) provides that payment of benefits under this section to one person bars recovery by any other person for the same benefit.

Section 8436. Survivor benefits for former spouses: elections, deposits and collections, and administrative provisions

This section describes how the survivor benefits which annuitants may elect for former spouses under section 8435 are administered.

Subsection (a)(1) provides that an annuitant may elect that survivor benefits to a former spouse by paid in a specified amount. The election may be made on the date the annuitant applies for annuity or not later than 2 years after the date the marriage to the former spouse was dissolved or annulled, whichever is later.

Subsection (a)(2) provides that if the annuitant elects a basic survivor benefit after retiring, then during the 2-year period referred to in subsection (a)(1) the annuitant must deposit into the Fund the estimated amount by which his or her annuity payments to date would have been reduced if the election had been in effect, plus interest as provided in section 8438(a).

Subsection (a)(3) provides that such an election may not be fully effective in three situations—

(A) It is not effective to the extent it conflicts with a court order or notice already filed with the plan;

(B) In the case of a basic survivor benefit, it is not effective to the extent that the amount of survivor benefit exceeds the limitation in section 8435(b)(2), relating to the 50-percent annuity formula, or in the case of both basic and thrift plan benefits in section 8435(c) and (d), relating to multiple survivor annuities;

(C) It is not effective if the annuitant is married when the election is made and does not get the current spouse's written consent.

Subsection (b) provides for an election by an annuitant who had elected survivor benefits to a former spouse or who has an eligible former spouse entitled to receive a survivor annuity when that former spouse's survivor-benefit entitlement terminates, due to his or her death or remarriage before age 55. This annuitant then may elect to provide or increase survivor benefits under the basic or the thrift plan for any other former spouse, during the 2-year period following such termination, subject to the same conditions specified in subsection (c) for electing a survivor benefit for a current spouse, and subject to the consent of the current spouse if any.

Subsection (c) provides that when the entitlement of a former spouse to survivor benefits is terminated or reduced due to that spouse's death or remarriage, during the following 2 years the annuitant may elect to provide a survivor annuity to the current spouse from the basic plan or the thrift plan by filing the election with OPM or the Executive Director as the case may be.

Subsection (d) provides that when the entitlement of a spouse to survivor benefits is terminated by death, the annuitant may elect,

within 2 years after the death to provide or increase an annuity for a former spouse.

Subsection (e) provides for OPM to authorize exceptions to the rule requiring consent of a married annuitant's spouse to waive election of a survivor annuity if the spouse's whereabouts cannot reasonably be determined or obtaining the consent would be inappropriate due to exceptional circumstances.

Section 8437. Termination of entitlement

This section provides that the rights to a survivor annuity of an annuitant's current spouse terminate at the death of the spouse or at dissolution of their marriage.

Section 8438. Deposits to the Fund

This section indicates how to compute deposits to the Fund when basic survivor benefits are elected by an annuitant whose annuity has already commenced. Such elections and deposits are permitted under section 8434(c), relating to marriage or remarriage of an annuitant, and under section 8436(a)(2), relating to former spouses. In each case the deposit is the amount by which the annuity payments to date would have been reduced if the survivor annuity had been elected earlier, typically from the date the annuity commenced, plus interest equal to the overall average yield of the CSRS fund.

Subsection (a) provides that interest rates are computed for this purpose each calendar year in the same manner as for deposits to the CSRS relating to prior service for which no contributions were made or for which contributions were withdrawn or which was military service. For years after 1984, rates are computed from the overall average yield of the Fund.

Subsection (b) provides that when an annuitant does not make the deposit required for this purpose, OPM will collect the deposit by offsetting the annuity, up to a maximum of 25 percent of the net annuity otherwise payable, and without getting the annuitant's consent to this offset.

Subsection (c) provides that OPM may extend the time limit specified for making the deposit for good cause shown.

SUBCHAPTER V—DISABILITY BENEFITS

This subchapter establishes a separate long-term disability (LTD) insurance plan which is self-insured by the Federal Government. Benefit payments and administrative services are to be provided by a third-party administrator. Only 18 months of service are needed to be eligible for benefits.

Section 8441. Definitions

Paragraph (1) defines an "administrator of benefits" as OPM or an insurance company or other entity which OPM contracts with to provide claims payment services and related administrative services.

Paragraph (2) defines "disability benefits under the Social Security Act" as those payable under section 223 or 202 of the Social Se-

curity Act (relating to determinations of eligibility and amount of benefits).

Paragraph (3) defines "disability date" as the date an eligible participant became disabled.

Paragraph (4) defines "disabled" to mean that an eligible participant—

(A) meets the conditions established by section 223 of the Social Security Act (unable to work in substantial gainful activity) or

(B) is unable, because of disease or injury, to render useful and efficient service in his or her position and is not qualified for reassignment to a vacant position in his or her employing agency, commuting area, and at the same grade or pay level, and in which he or she would be able to render useful and efficient service (occupationally disabled).

Paragraph (5) defines "eligible participant" as an employee or Member with service exceeding 18 months who—

(A) has applied for disability benefits under the Social Security Act and has been determined to be eligible within the meaning of title II of the Social Security Act (this includes someone not entitled to these benefits only because of insufficient quarters of coverage in which case the administrator of benefits will determine the disability) or

(B) meets the conditions set forth in paragraph (4)(B) of this section as determined by the administrator of benefits.

Paragraph (6) defines "final average pay" as the participant's annual rate of pay on his or her disability date, increased thereafter by the same overall average increase in General Schedule rates of pay.

Paragraph (7) defines "onset average pay" as the participant's average pay on his or her disability date, increased on January 1 of each year by the annual Consumer Price index increase minus 2 percentage points.

Paragraph (8) defines "projected service" as the sum of years of service before the disability date and the years after such date and before age 62, in the case of an individual referred to in paragraph (5)(A), or age 55, in the case of an individual referred to in paragraph (5)(B).

Section 8442. Entitlement

Subsection (a) provides that an eligible participant is entitled to receive benefits under this subchapter while under 62, in the case of a person who meets the Social Security definition of disability (totally disabled) or while under 55, in the case of a person who meets the occupational disability definition. Benefits begin after accrued sick leave has been used and continue through the end of the month during which he or she reaches 62 or 55 as the case may be. On the first day of the month after the participant reaches the maximum age prescribed above, the annuity payable under the basic plan applies.

Subsection (b)(1) provides that an employee who has 5 or more years of service and projected service shall be entitled to an annuity when he or she reaches age 62 or 55 as the case may be.

Subsection (b)(2) provides that the annuity is computed by counting service and projected service through the end of the month in which he or she reaches the maximum age for disability benefits. Average pay is the participant's onset average pay, in the case of a participant who did not elect to make contributions under section 8418(c), and the participant's final average pay, in the case of a participant who elected to make contributions under section 8418(c).

Subsection (b)(3) provides that if an eligible participant did not elect to make contributions under section 8418(c) or has received a refund of contributions made under such an election, the amount of the annuity he or she is entitled to receive will be the lesser of (i) the monthly amount of the disability benefits received before becoming eligible to receive an annuity or (ii) the amount of the annuity computed under paragraph (1) of this subsection.

Subsection (c) provides that if the condition of the disabled participant changes so that someone who is occupationally disabled becomes totally disabled, or vice versa, the participant's disability benefits are adjusted to reflect the changed condition.

Section 8443. Computation of benefits

Subsection (a) provides that someone who is totally disabled receives 60 percent of his or her average pay minus the amount of any disability benefits payable under the Social Security Act at the date of disability. Subsequently, the disability benefit is increased by CPI minus 2 in option A, and by the full CPI in option B, without regard to the Social Security amount.

Subsection (b) provides that someone who is occupationally disabled receives 60 percent of average pay during the first year of disability and 40 percent of that amount (as increased by any applicable cost-of-living increase) thereafter, until her or she reaches age 55.

Section 8444. Application

Subsection (a) requires a claim for disability benefits to be filed before the date the participant separates from employment by the Government or within 1 year after such date.

Subsection (b) provides that the appropriate administrator of benefits may waive the time limit for applying for benefits if it is determined that the participant was mentally incompetent during that period and the application for benefits is filed within 1 year after the participant is restored to mental competency or the date a fiduciary is appointed to manage the participant's financial affairs, whichever date is earlier.

Section 8445. Medical examinations

Subsection (a) provides that an applicant for or a recipient of disability benefits shall be examined by a physician of the benefit administrator's choice at its discretion.

Subsection (b) provides for a physician examining a participant under subsection (a) to report the diagnosis and prognosis to the appropriate administrator of benefits.

Subsection (c) provides that a participant who fails to submit to the examination required under subsection (a) shall not be entitled to disability benefits.

Section 8446. Offers of alternative employment

Subsection (a) requires that an agency consider for appointment an applicant for disability benefits who is determined to be able, on the basis of the medical examination required by section 8445, to perform the work of a position in his or her agency for which the participant is qualified, is not lower than the participant's grade or pay level, and is within the participant's commuting area.

Subsection (b) provides that the applicant is entitled to appeal to the Merit Systems Protection Board a determination of ability to perform the work required in the position described in subsection (a).

Section 8447. Recovery or restoration of earning capacity

Subsection (a)(1) provides for the administrator of benefits to terminate disability benefits to an individual who recovers from disability before age 62 or from occupational disability before 55. The termination date is the date of reemployment by the Government or 1 year after the date of the medical examination on which the determination is based, whichever date is earlier.

Subsection (a)(2) provides that payment of benefits is resumed if the disability recurs, as determined by the administrator of benefits after a medical examination, and the individual has not yet reached the maximum age for receipt of the total disability or the occupational disability benefit, as the case may be. Payments will resume effective on the date the medical examination was completed and will be at the annual rate that would have been payable if payment of disability benefits had not been terminated.

Subsection (b)(1) provides for the administrator of benefits to terminate disability benefits to a recipient who receives income from wages or self-employment or both during a calendar year which totals an amount equal to 60 percent of the rate of pay for the individual's position on the date of disability, increased by the same percent as the overall percent increase in rates of pay under the General Schedule. The termination date is 60 days after the end of such calendar year.

Subsection (b)(2) provides that payment of benefits is resumed if the individual is not reemployed in a position subject to this chapter, continues to be disabled, is under the maximum age for receipt of disability benefits, and income from wages or self-employment during the year in which benefits were terminated is less than 60 percent of the pay for his or her position. Payments will resume effective the first day of the first year after the year in which income was less than 60 percent. The annual rate of the disability benefits upon resumption is the annual rate that would have been payable if payments had not been terminated.

Subsection (c) provides that a determination under this section may be appealed to OPM. A determination by OPM may be appealed to the Merit Systems Protection Board.

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Section 8448. Relationship to workers' compensation

Subsection (a) provides that an individual is not entitled to receive both disability benefits under this chapter and compensation for injury to or disability of the individual under subchapter I of chapter 81 of this title covering the same period of time. This does not bar the claimant's right to the greater benefit conferred by either subchapter for any part of this period of time, nor does it deny the individual any concurrent benefit he or she is entitled to receive under this chapter and under subchapter I of chapter 81 on account of the death of another individual.

Subsection (b) provides that an individual's receipt of a lump-sum payment for compensation under section 8135 shall not affect the individual's entitlement to disability benefits under this subchapter. However, if benefits are payable under this subchapter for the same disability for whcih a lump-sum payment of compensation has been made, the compensation amount paid for a period extended beyond the date payment of disability benefits begins is refunded to the Employees' Compensation Fund maintained by the Department of Labor. The amount owed and the method of settlement are as determined by the Department of Labor.

Section 8449. Military reserve technicians

Subsection (a)(1) provides that a participant is entitled to disability benefits under the occupational disability definition of this chapter if the participant—

(A) is separated from employment as a military reserve technician by reason of a disability that disqualifies the individual from membership in a reserve component of the Armed Forces or from holding the military grade required for such employment;

(B) is not considered disabled;

(C) is not appointed to another position in the Government; and

(D) has not declined an offer of appointment to a position in the Government.

Subsection (a)(2) provides that payment of disability benefits under this section terminates on the date the individual is appointed to a position in the Government or declines an offer of appointment to a position in the Government, or as provided in section 8447 of this title (relating to recovery from disability).

Subsection (b) provides that any individual applying for or receiving disability benefits under this section shall be considered by any agency of the Government, as specified by OPM, before any vacant position in the agency is filled if the position is in the same commuting area and at the same grade or level and the individual is qualified for it.

Section 8450. Administrative provisions

Subsection (a) defines "State" as a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

Subsection (b)(1) authorizes OPM to contract with one or more insurance companies or other entities to perform some or all of the functions described in paragraph (2) of this subsection.

Subsection (b)(2) identifies the functions referred to in paragraph (1). They include determining entitlements, computing the benefits, making payments, communicating the program to agencies and employees, monitoring cases for rehabilitation opportunities or recovery from disability, and other administrative duties.

Subsection (c) provides that a contractor under a contract awarded by subsection (b) shall establish an administrative office under a name approved by OPM.

Subsection (d) provides that contracts under this section shall not exceed 5 years and may be automatically renewable, in the absence of a notice by either party of intention to terminate, for successive 1 year terms.

Subsection (e) permits OPM to terminate a contract under this section at any time, subject to reasonable notice and opportunity for hearing (as prescribed by OPM regulations) if OPM finds that the contractor is not carrying out the contract properly.

Subsection (f) provides that each contract under this section will provide for advances of monies from the Federal Employees' Disability Insurance Fund to the contractor as needed to pay disability benefits and administrative expenses.

Subsection (g) provides for OPM to include terms and conditions appropriate to protect the interest of participants and the United States in contracts awarded under this section.

Subsection (h) provides that records established or maintained by an administrator of benefits are the property of the United States.

Subsection (i) provides that provisions of a contract under this subchapter supersede and preempt State laws or regulations related to group disability insurance to the extent such laws or regulations are inconsistent with the contractual provisions.

Subsection (j) requires the Secretary of Health and Human Services to furnish OPM and the administrator of benefits such information relating to administration of the Social Security Act as is necessary to carry out this subchapter.

Section 8451. Annual accounting; special contingency reserve

Subsection (a) provides for a contract under this subchapter to include a provision requiring the administrator of benefits to transmit to OPM, not later than 90 days after the end of each contract year, an accounting of all monies advanced, benefit payments made, and authorized expenses charged for the contract year.

Subsection (b) provides that any funds advanced which were not used for benefit payments or administrative expenses shall be credited to contract charges in the next contract year or returned to the Federal Employees' Disability Insurance Fund upon termination of the contract, as directed by OPM.

Section 8452. Federal Employees' Disability Insurance Fund

Subsection (a) establishes this fund in the U.S. Treasury.

Subsection (b) requires each Government agency employing participants to make payments to this fund from appropriations or funds available for salaries equal to the percentage of basic pay

which OPM determines is necessary to fund benefits and administrative expenses. OPM shall require agencies to pay into the fund amounts that take into consideration the proportion of disability recipients of that agency to the rest of the Government.

Subsection (c) provides that sums in this fund are available without fiscal year limitation as OPM determines necessary to pay authorized benefits and expenses.

Subsection (d) provides for the Secretary of the Treasury to invest and reinvest money in this fund in interest-bearing obligations of the United States and to sell such obligations for the purposes of such fund. The interest on and proceeds from the sale of these obligations become a part of such fund.

Subsection (e) precludes a State, any political subdivision, or other governmental authority thereof to impose or collect a tax, fee, or other monetary payment on, or with respect to, any funds transferred to contractors for payment and administration of disability benefits under this subchapter. This does not exempt any administrator of benefits from the imposition of collection of a tax, fee, or other monetary payment on the net income or profit realized by the administrator from business conducted under this subchapter, if such a levy is applicable to a broad range of business activity.

SUBCHAPTER VI—GENERAL AND ADMINISTRATIVE PROVISIONS

Section 8461. Authority of the Office of Personnel Management

Subsection (a) provides that OPM shall pay all benefits that are payable from the CSRS fund.

Subsection (b) provides that OPM shall administer all provisions of this chapter not specifically required to be administered by the Board, the Executive Director, or any other entity.

Subsection (c) permits OPM to make regulations to carry out the provisions of this chapter which they administer.

Section 8462. Cost-of-living adjustment in basic plan annuities, survivor annuities, and disability benefits

Subsection (a) specifies that, for this section, the term "base quarter" means, with respect to a year, the calendar quarter ending on September 30 and that the price index for a base quarter is the arithmetic mean of such index for the 3 months of such quarter.

Subsection (b)(1) provides, that, effective December 1 of each year in which the price index for the base quarter of such year exceeds the price index for the base quarter of the preceding year, basic and survivor annuities paid from this plan beginning not later than December 1 are increased by the applicable percentage computed under paragraph (2), (3), (4), (5), (6), or (7) of this subsection.

Subsection (b)(2) provides that, for annuities paid to those who did not elect to contribute to the Fund under section 8418(c), or who received a refund, pursuant to section 8420, of such contributions, increases are as follows:

no increase prior to age 62;

from age 62 through 66, the Consumer Price Index increase minus 2 percent;

at age 67 and above, an amount equal to the Consumer Price Index increase.

Subsection (b)(3) provides that, for annuities paid to those who elected to contribute to the Fund under section 8418(c) and who have not received a refund of such contributions, increases are as follows:

before age 62, the consumer price index increase minus 2 percent;

at age 62 and above, an amount equal to the Consumer Price Index increase.

Subsection (b)(4) provides that annuities for the special classes referred to in sections 8411(c) and 8411(d) will be increased by the Consumer Price Index minus 2 percent from age 55 through 66; after age 67, the increase will be equal to that of the Consumer Price Index.

Subsection (b)(5) provides that the annuity of a disability benefit recipient under section 8442(b) will be increased after conversion to the retirement rolls at age 55 as follows:

If he or she did not elect to contribute to the Fund, the increase prior to age 67 is the Consumer Price Index increase minus 2 percent; after 67 it is equal to the Consumer Price Index increase.

If he or she elected to contribute to the Fund and has not received a refund, the increase is equal to the Consumer Price Index increase.

Subsection (b)(6) provides for survivor annuities in the case where the deceased did not elect to contribute to the Fund. In these situations survivor annuities are increased by an amount equal to the Consumer Price Index increase minus 2 percent for a survivor annuitant under 67 years of age and are increased by an amount equal to the Consumer Price Index for survivor annuitants who are at least 67 years old.

Subsection (b)(7) provides for survivor annuities in the case where the deceased elected to contribute to the Fund under section 8418(c). In these situations, the survivor annuities are increased by an amount equal to the Consumer Price Index.

Subsection (c) provides for a pro rata share of the increase to retirees or survivor annuitants for whom this is the first increase, and for an increase to a surviving spouse or former spouse annuity equal to the total percentage by which the deceased annuitant's annuity had been increased from the date it began through the date it ended.

Subsection (d) provides that disability benefits payable under subchapter V of this chapter will be increased effective December 1 of each year as follows:

If he or she did not elect to contribute to the Fund, by an amount equal to the Consumer Price Index minus 2 percent;

If he or she elected to contribute to the Fund and has not received a refund, by an amount equal to the Consumer Price Index increase.

Subsection (e) provides for a pro rata share of the increase for disability recipients for whom this is the first increase.

Subsection (f) provides that the monthly installment of an annuity is rounded to the next lowest dollar, but the increase is to be at least $1.

Section 8463. Rate of benefits

This section provides that each annuity and disability benefit is stated as an annual amount, one-twelfth of which, fixed at the next lowest dollar, is the monthly rate payable on the first business day of the first month beginning after the last day of the month for which the annuity or disability benefit has accrued.

Section 8464. Commencement and termination of annuities

Subsection (a) provides that, unless otherwise specified, a participant's annuity begins the first day of the first month after separation from employment if entitled to an immediate annuity or, if entitled to a deferred annuity, the date elected by the participant or the date he or she becomes 62, whichever is earlier. The annuity terminates at death or other terminating event provided by law.

Subsection (b) provides that, unless otherwise specified, a survivor annuity begins on the first day of the first month after the date of the participant's or former participant's death on which the annuity is based. It ends on the last day of the last month ending before the surviving spouse or former spouse dies or, if under the age of 55, remarries.

Section 8465. Waiver, allotment and assignment of benefits

Subsection (a) provides that an individual entitled to benefits from the basic plan may decline to accept all or part of these benefits by filing a waiver with OPM. The waiver may be revoked in writing at any time. Payment of the benefits waived may not be made for the period the waiver was in effect.

Subsection (b) permits an individual entitled to receive basic plan benefits to make allotments or assignments from such benefits for such purposes as OPM considers appropriate.

Section 8466. Application for benefits

Subsection (a) provides that no benefits may be paid unless an application for payment is received by OPM before the 115th anniversary of the former participant's birth.

Subsection (b) provides that benefits based on the death of a participant or former participant will not be paid unless an application is received by OPM within 30 years after the death or other event which establishes the entitlement to the benefit.

Section 8467. Court orders

Subsection (a) provides that payments which would otherwise be made to a participant or former participant shall be paid in whole or in part to another person if and to the extent a court order or court-approved property settlement incident to a divorce, annulment, or legal separation expressly provide. This applies to both the basic plan and the thrift plan. Any payment under this paragraph to a person bars recovery by any other person for the same payment.

Subsection (b) provides that subsection (a) applies only to payments made by OPM or the Executive Director after the date they receive written notice of such decree, order, or agreement and such additional information and documentation as they may require.

Section 8468. Annuities and pay on reemployment

Subsection (a)(1) provides that when an annuitant becomes employed in an appointive or elective position in the Government, his or her annuity terminates effective on the date of employment. Service after employment is covered by this chapter. When the employment terminates, the annuitant's rights under subchapter II are redetermined. If the annuitant dies while employed, a survivor annuity shall be redetermined as if employment had otherwise terminated on the date of death.

Subsection (a)(2) provides that the annuity resulting from a redetermination of rights will not be less than the amount of the terminated annuity plus cost-of-living increases occurring during the same period it was terminated.

Subsection (b) provides for OPM to prescribe regulations permitting an annuitant employed on a part-time basis to elect to have his or her annuity continued. The combined annuity and salary payment may not exceed the annual rate of pay for full-time employment in the position in which the annuitant is employed.

Section 8469. Information

Subsection (a) provides that OPM shall make available to each individual who is required or eligible to be a participant such information as may be necessary to enable the individual to understand the rights and benefits, including options, which the individual has under the provisions of this chapter. The committee expects OPM to allocate substantial resources to this task. The design of this retirement plan incorporates the principle of employee choice. Without adequate information, employees are unable to make informed choices. The committee strongly urges OPM to design an informational program which can be easily transmitted by agencies to employees or prospective employees with regard to employee benefits, choices and the likely consequences of such choices.

Subsection (b) provides that the information in subsection (a) shall include a summary of the Thrift Savings Plan similar to information required by ERISA. It must also include a statement that investment of a participant's funds in the Fixed Income Fund and the Common Stock Index Fund is made at the participant's risk and that the Federal Government does not protect against loss on the investment or guarantee a return on the investment.

SUBCHAPTER VII—TRANSITION PROVISIONS

This subchapter outlines the treatment that will apply to employees covered by the Civil Service Retirement System (CSRS) who elect to participate in this plan, to employees covered by this plan who have prior service under CSRS, to employees in the interim program, and to reemployed annuitants from another Government retirement system.

Section 8471. Treatment of certain individuals subject to the Civil Service Retirement and Disability System

Subsection (a)(1) permits employees in the CSRS, whether or not their service is covered employment under Social Security, other than the District of Columbia government employees, to elect to transfer to the Federal Retirement System (FRS). It also provides that a Member of Congress who is not required to participate in the FRS may elect to transfer to it. Such an election must be in writing, as prescribed by OPM regulation, and not later than December 31, 1987. In the case of an individual who becomes an employee or Member after a break in service for a period that includes January 1, 1987, the election must be not later than 1 year after the date the individual resumes service.

Subsection (a)(2) provides that an individual who elects to transfer to the FRS retains credit for entitlement to benefits under the CSRS for service performed subject to CSRS, except for disability benefits and for service in the interim program.

Subsection (a)(3) provides that an individual electing to transfer to the FRS who becomes an employee or Member after a break in service for a period including January 1, 1987, retains any rights to make deposits for service under the CSRS prior to such date.

Subsection (b) provides that an individual with prior service under the CSRS who has not received a refund of his or her CSRS contributions and who is required to participate in the FRS credit for entitlement to benefits under the CSRS, subject to section 8472(d), which excludes entitlement to CSRS disability benefits for such an individual.

Subsection (c) provides that an individual who has received a refund of his or her CSRS contributions and who is required to participate in the FRS make a deposit to the retirement fund to have his or her service under CSRS recredited, except for service in the interim program. Such an individual retains CSRS credit in the same way as an individual subject to subsection (b).

Subsection (d) provides that survivor benefits are payable based on conditions of eligibility and service under both the CSRS and the FRS.

Section 8472. Special rules for participants retaining entitlement in the Civil Service Retirement and Disability System

Subsection (a) provides that CSRS participants who elect to transfer to the FRS or who are covered by the FRS but retain credit for prior service under CSRS will have their CSRS service credited under the FRS only for determining eligibility to retire under the FRS, receiving disability benefits under the FRS, vesting in the thrift plan, and determining the applicable accrual rate under section 8413(a)(1).

Subsection (b) provides that individuals described in subsection (a) may have service under the FRS credited under CSRS only for determining eligibility to retire entitled to an annuity under provisions covering mandatory separation, immediate retirement, or deferred retirement.

Subsection (c) provides that rates of pay in effect for an individual referred to in subsection (a) after he or she transfers to the

FRS are included in computing average pay for benefits under the CSRS and that rates of pay in effect before such date are included in computing average pay for the FRS.

Subsection (d) provides that disability benefits from CSRS do not apply to a participant who transfers to the FRS or who retains entitlement to benefits from the CSRS.

Section 8473. Participants Subject to the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983

Subsection (a) provides that the service of a participant, other than a Member of Congress or an individual described in section 8471(a)(1)(A)(ii), who made a reduced contribution to the CSRS based on this Act, will be credited for all purposes under the FRS.

Subsection (b)(1) provides that on January 1, 1987, the amount computed under paragraph (2) of this subsection will be transferred to an account in the Thrift Savings Fund established for participants to whom subsection (a) applies.

Subsection (b)(2) provides that the amount transferred to the Thrift Savings Fund will be twice the amount of money the individual contributed to CSRS plus interest at the rate determined under section 8334(e) credited monthly and compounded annually.

Subsection (b)(3) provides that, for vesting purposes in the thrift plan, half of the amount will be treated as a contribution from the participant and half as a contribution by the employing agency.

Subsection (b)(4) provides that all amounts transferred will be invested in the Government Securities Investment Fund established under section 8427.

Subsection (c) provides that participante hire during the period covered by this act who made a deposit to cover military service will receive a refund of the deposit.

Section 8474. Reemployed annuitants under a Government retirement system

Subsection (a) defines terms used in this section—

Paragraph (1) defines "annuitant" as having the same meaning as it does under section 8331(9) of title 5 (for CSRS annuitants), section 4044(1) of title 22 (for Foreign Service annuitants, excluding survivors), and section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

Paragraph (2) defines "Government retirement system" as the Civil Service Retirement and Disability System, the Foreign Service Retirement and Disability System, and the Central Intelligence Agency Retirement and Disability System.

Paragraph (3) defines "reemployed annuitant" as an annuitant who becomes employed by the Government after the effective date of the Federal Retirement Reform Act of 1985 and is required by section 8402 of this title to be participant. Individuals who are not covered by the Social Security Amendments of 1983 (i.e., those whose annuities continue after reemployment as described in section 8344 of title 5) are not included under this definition; those whose annuities cease upon reemployment (i.e., those excepted from section 8344(a) of title 5) are included under this definition.

Subsection (b) provides that a reemployed annuitant retains entitlement in the Government retirement system under which he or she is receiving an annunity.

Subsection (c) provides that service creditable under the reemployed annuitant's Government retirement system is credited under this chapter only for determining eligibility to retire under the FRS. Service performed as a reemployed annuitant is not creditable for the individual's previous retirement system.

Subsection (d) provides that pay earned as an employee before and after reemployment is considered in computing average pay under both the FRS and the annuitant's Government retirement system.

Section 8475. Exemption from certain offset provisions of the Social Security Act

This section provides that individuals covered by the CSRS who elect to transfer to the FRS, or those covered by the FRS who retain entitlement to CSRS benefits, are excluded from the windfall benefits reduction and the public pension spouse offset after they have completed 5 years of service under the FRS.

Section 8476. Regulations

This section permits OPM to prescribe regulations to carry out this subchapter.

SUBCHAPTER VIII—FEDERAL RETIREMENT THRIFT INVESTMENT MANAGEMENT SYSTEM

This subchapter sets forth the management, policy, and operation of the Federal Retirement Thrift Investment Management System. It establishes the Federal Retirement Thrift Investment Board, the Executive Director function, the Federal Retirement Thrift Advisory Committee, and the Employee Advisory Committee, and defines the role of each in the management of the Thrift Savings Fund.

Although thrift plans are a common feature of private-sector pension plans, they have been used only in a few Federal organizations, the Tennessee Valley Authority, Federal Reserve Board, the Federal Deposit Insurance Corporation and Comptroller of the Currency. None of these Federal thrift plans is comparable to the size, scope, and complexity of the Thrift Savings Plan for the Federal workforce covered under S. 1527. The committee designed the system to parallel private sector practice where possible but took into account the special political and economic considerations presented by a large scale thrift plan for the Federal retirement system. To the extent possible, the Federal Retirement Thrift Investment Management System meets the requirements of the Employee Retirement Income Security Act of 1974 (ERISA). The committee built as many protections as possible into the thrift plan.

Section 8491. Federal Retirement Thrift Investment Board

Subseciton (a) establishes the Federal Retirement Thrift Investment Board in the executive branch of the Government.

Subsection (b) provides for the five members of the Board to be the Chairman of the Federal Reserve Board, the Secretary of the Treasury, the Director of OPM and two representatives of Federal employee organizations appointed by the President, one of whom must be from a labor organization and one from a Federal managers' organization. The Chairman of the Federal Reserve will serve as the Chairman of the Thrift Investment Board. To enable the Board to continue to function in the event of a vacancy in one or more of the *ex-officio* positions, the committee provided for the person acting in such position to serve as a member of the Board during this time. This subsection also provides for the members of the Board appointed by the President to serve until replaced by the President which would provide continuity during the transition period following a change in Presidents.

Subsection (c) defines the required responsibilities of the Board to establish policies for investment and management of the Thrift Savings Fund and for administering the thrift plan benefits and survivor annuities payable from the Thrift Fund. The Board must also review the investment performance of the Thrift Fund, set the rate of pay for the Executive Director without regard to civil service and classification laws, supervise the Executive Director and review and approve the budget for the Board.

Subsection (d) provides for the Board to delegate responsibilities to the Executive Director to carry out Board policies with regard to the provisions in subchapter III and this subchapter and those of subchapter IV relating to survivor annuities payable from the Thrift Savings Fund. This subsection also provides for the Board to remove the Executive Director for good cause with concurring votes of four members after investigation by the Comptroller General of the United States.

The committee intends for the Board to provide broad oversight to the Thrift Savings Fund but not to be involved either directly or indirectly in specific investment decisions. Accordingly, subsection (d)(2) provides that the Board is prohibited from directing the Executive Director or any contractor under a contract for the Thrift Fund to invest in any particular asset or dispose of any asset in the Fund. The Board is not permitted to direct the Executive Director to enter into or terminate a contract relating to investments.

Subsection (e) requires the Board members to act solely in the interest of those participating and receiving benefits from the Thrift Fund.

Section 8492. Federal Retirement Thrift Advisory Committee

Subsection (a)(1) provides for the Board to establish as Federal Retirement Thrift Advisory Committee. Subsection (a)(2) provides for the committee to be composed of six members appointed by the Board. Three of the members are to be from among investment asset managers outside the Government and three among administrators of thrift savings plans for employees in private sector enterprises. Subsection (a)(3) provides that the Board shall set the terms and conditions of service of Advisory Committee members.

Subsection (b) defines the responsibilities of the Advisory Committee. Although the Board is not permitted to be directly involved in specific investment decisions, this Advisory Committee will pro-

vide expert advice to the Board and Executive Director on the broad overall investment policy and decision making responsibilities relating to selection of investment funds and investment managers. It will also advise on the administration of the Thrift Savings Fund and performance of the duties of the Board and Executive Director.

Section 8493. Employee Advisory Committee

This section establishes and defines the responsibilities of the Employee Advisory Committee, which is an elected body representing the participants in the Thrift Savings Plan. The committee intended that through this Advisory Committee the views of the Thrift Plan participants are represented. One of the primary functions of the Employee Advisory Committee will be to exercise all rights as shareholders with respect to the Common Stock Index Investment Fund. The Board, with Federal Government officials, could not perform this function. Because of the potential number of participants, it would be administratively impossible for individuals to exercise shareholder rights. Therefore, the committee established the Employee Advisory Committee.

Subsection (a) provides for the Board to establish an Employee Advisory Committee, composed of five elected members each of whom is a participant and has an account balance in the Thrift Savings Fund.

Subsection (b) defines the requirements for the election of the members who must be elected by majority vote of the voting participants who vote. A voting participant is defined as a participant who has an account balance in the Thrift Savings Fund. Nominations for the elections of members of the Employee Advisory Committee are to be solicited from voting participants. Each voting participant has one vote for each vacancy and a voting participant may cast only one vote for an individual nominee. The Executive Director will prescribe regulations for run-off elections. Each member of the Employee Advisory Committee shall serve for a 2-year term except that three of the first five members shall serve for a term of 3 years to provide some continuity in the beginning of the operation of the Thrift Plan.

Subsection (c) requires a majority vote for action by the Employee Advisory Committee.

Subsection (d) defines the functions of the Employee Advisory Committee, which are to advise the Board and Executive Director on investment policies for the Thrift Savings Fund and selection of types of investment funds. The Employee Advisory Committee will also advise the Executive Director about stocks to be excluded from the Common Stock Index Investment Fund in accordance with section 8427(b)(2)(C), exercise all rights as shareholders for stocks in the Common Stock Index Investment Fund, and perform other duties as the Board may direct.

Section 8494. Executive Director

This section defines the functions and responsibilities of the Executive Director, who the committee intends to be the primary manager of the Thrift Plan. Unlike the Board, the Executive Director will have direct responsibility for investment decisions.

Subsection (a) provides for the Board to appoint an Executive Director with majority agreement by the members of the Board. The Board will set the terms and conditions of service for the Executive Director, who must have substantial experience and expertise in the management of financial investments.

Subsection (b) provides for the required responsibilities of the Executive Director. They are to carry out Board-established policies, invest and manage the Thrift Savings Fund in accordance with policies established by the Board, administer the Thrift Plan and the payment of survivor annuities out of the Thrift Savings Fund, and provide for payment of annuities and other authorized distributions from the Thrift Fund. For making payments or distributions out of the Thrift Savings Fund, the committee intends for the Executive Director to have the flexibility to select the vehicle for doing this. Since the Office of Personnel Management (OPM) administers payments of other annuities, it may be feasible for OPM to administer the payments for the Thrift Savings Fund also. However, the committee intends for the Executive Director to have the option of selecting OPM or some other source.

Subsection (c) defines the discretionary functions of the Executive Director.

Subsection (c)(1) provides that the Executive Director may prescribe regulations to carry out his/her responsibilities as defined in this section other than regulations relating to fiduciary responsibilities.

Subsection (c)(2) provides that the Executive Director may, without regard to civil service and classification laws, hire and set pay of personnel to carry out the provisions of this subchapter, or subchapter III and of subchapter IV which relate to survivor annuities payable to the Thrift Savings Fund. However, these employees, as part of an executive branch agency, would be covered under the Civil Service Retirement System or the Federal Retirement System.

Subsection (c)(3) provides for the Executive Director to contract for services, including administrative services, to carry out the provisions of this subchapter, investment of the Thrift Savings Fund, and policies of the Board.

Subsection (c)(4) provides for the Executive Director to obtain from Federal entities, information, data and advice, as necessary, to carry out the provisions of this subchapter and subchapter III, provisions of subchapter IV which relate to survivor annuities payable out of the Thrift Savings Fund, and policies of the Board.

Subsection (c)(5) provides for the Executive Director to make payments from the Thrift Savings Fund necessary to carry out provisions of this subchapter and subchapter III, provisions of subchapter IV relating to survivor annuities payable out of the Thrift Savings Fund and policies of the Board.

Subsection (c)(6) provides for the Executive Director to pay compensation, per diem, and travel expenses of personnel from the Thrift Savings Fund.

Subsection (c)(7) provides for the Executive Director to utilize the services of individuals employed intermittently in the Government service and reimburse these individuals for travel and per diem expenses as authorized by section 5702 and 5703 of title 5.

Subsection (c)(8) provides for the Executive Director, except as prohibited by law or Board policy, to delegate his/her responsibilities to officers and employees under the Board and provide for further redelegation.

Subsection (c)(9) provides for the Executive Director to take other actions as appropriate to carry out his/her function.

Section 8495. Investment policy

This section requires the Board to develop investment policies which provide for prudent investments suitable for accumulating funds for retirement income, low administrative costs, and investments likely to receive broad acceptance by participants and the public, taking into consideration the views of the Employee Advisory Committee.

Section 8496. Administrative provisions

This section provides for the meeting schedule of the Board, quorum for transaction of business, and compensation for members of the Board, the Federal Retirement Thrift Advisory Committee, and the Employee Advisory Committee.

Subsection (a) provides for the Board to meet at the call of the Chairman but at least once during each fiscal year.

Subsection (b) provides for the Board to transact business on a majority vote of a quorum of the Board and provides that a vacancy on the Board shall not affect the authority of a quorum.

Subsection (c) provides that three members of the Board constitute a quorum.

Subsection (d) provides for Board members who are not officers or employees of the Federal Government, each member of the Employee Advisory Committee who is not an employee or member, and each member of the Federal Retirement Thrift Advisory Committee to be compensated. They are to be compensated at the daily rate of basic pay at the grade GS-18 level under the General Schedule when performing the above functions. Board members, the Federal Retirement Thrift Advisory Committee, and the Employee Advisory Committee are to be paid travel and per diem expenses, as necessary.

Subsection (e) provides that an employee who is a member of the Board or the Employee Advisory Committee will not be charged annual leave for time in performing service for the Board.

Subsection (f) provides for the Federal Retirement Thrift Advisory Committee and Employee Advisory Committee to be exempt from section 14(a)(2) of the Federal Advisory Committee Act, which requires advisory committees to terminate after 2 years.

Section 8497. Fiduciary responsibilities; liability and penalty

This section identifies fiduciaries and their responsbilities, defines "party in interest," states basic standards of fiduciary conduct, lists prohibited practices by fiduciaries and describes penalties for violations.

Subsection (a)(1) defines the term "fiduciary" to include each member of the Federal Retirement Thrift Advisory Committee and the Executive Director, any person with discretionary authority over the management of assets of the Thrift Savings Fund, each

member of the Employee Advisory Committee with respect to the member's duties related to the Common Stock Index Investment Fund except when defining a stock index as provided in section 8427, and any person with respect to the Thrift Savings Fund described in section 3(21)(A) of the Employee Retirement Income Security Act of 1974. Board members are not fiduciaries for the Thrift Savings Fund.

Subsection (a)(2) defines the term "party in interest" to include:

(A) any fiduciary;

(B) any counsel to a fiduciary, acting as such;

(C) any participant;

(D) any person providing services to the Board or the Executive Director, acting as such;

(E) a labor organization, the members of which are participants;

(F) a spouse, sibling, ancestor, lineal descendant, or spouse of a lineal descendant of a person described in subclause (A), (B), or (D);

(G) a corporation, partnership, or trust or estate of which, or in which, 50 percent or more of—

(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation;

(ii) the capital interest or profits interest of such partnership; or

(iii) the beneficial interest of such trust or estate,

is owned directly or indirectly, or held by a person described in subclause (A), (B), (D), or (E) of this clause;

(H) an employee, officer, director, or any individual having powers or responsibilities similar to those of an officer and director, or a holder (directly or indirectly) of 10 percent or more of the shares of a corporation referred to in subclause (G) of this clause; and

(I) an employee, officer, director, or an individual having powers or responsibilities similar to those of an officer and director, or a person who, directly or indirectly, is at least a 10-percent partner or joint venturer in a person described in subclause (A), (B), (D), (E), or (G) of this clause;

It is intended in this subsection that "party in interest" will be interpreted the same as under the Employee Retirement Income Security Act of 1974.

Subsection (a)(3) defines the term "person" to mean an individual, partnership, joint venture, corporation, mutual company, joint-stock company, trust, estate, unincorporated organization, association, or labor organization.

Subsection (a)(4) defines "adequate consideration" as follows:

(A) in the case of a security for which there is a generally recognized market—

(i) the price of the security prevailing on a national securities exchange which is registered under section 6 of the Securities Exchange Act of 1934; or

(ii) if the security is not traded on such a national securities exchange, a price not less favorable to the Thrift Savings Fund than the offering price for the security as estab-

lished by the current bid and asked prices quoted by persons independent of the issuer and of party in interest;

(B) in the case of an asset other than a security for which there is a generally recognized market, the fair market value of the asset as determined in good faith by the fiduciary or fiduciaries in accordance with regulations by the Department of Labor.

Subsection (b)(1) provides that a fiduciary will carry out his/her duties solely in the interest of the participants and beneficiaries for the purpose of providing benefits and defraying reasonable expenses of the Thrift Savings Fund. It also provides that a fiduciary will act in the manner of a prudent individual who is familiar with such matters in similar circumstances and diversify investments of the Thrifts Savings Fund to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so. A fiduciary should also act in accordance with the policies described by the Board.

Subsection (b)(2) provides that a fiduciary may not maintain the indicia of ownership of any assets of the Thrift Savings Fund outside the jurisdiction of the district courts of the United States.

Subsection (c)(1) provides that a fiduciary shall not permit the Thrift Savings Fund to transfer assets to a party in interest, acquire property by a party in interest, or exchange services with a party in interest, except for adequate consideration.

Subsection (c)(2) provides that a fiduciary will not deal with assets in the Thrift Savings Fund in his/her own interest or for his own account. A fiduciary will not act in any capacity in a transaction involving the Thrift Savings Fund on behalf of or representing a party whose interests are adverse to the interests of the Thrift Savings Fund or the interests of its participants or beneficiaries. A fiduciary will not receive any consideration for his/her own personal account for any party dealing with sums in the Thrift Savings Fund in connection with a transaction involving the Thrift Savings Fund.

The committee deliberately liberalized permitted transactions with parties in interest vis-a-vis the Employee Retirement Income Security Act of 1974. This was done to avoid some of the overreaching in the ERISA statute. However, the committee retained the strict prohibitions against self-dealing. The committee is cognizant of the potential pitfalls of liberalizing the general rules but feels that effective enforcement by the Labor Department of the self-dealing prohibitions should protect against most, if not all, undesirable arrangements.

Subsection (d) clarifies that a fiduciary may receive any benefit he/she is entitled to receive as a participant, former participant or beneficiary. It also provides for a fiduciary to be reasonably compensated for services rendered or reimbursement of expenses incurred in carrying out fiduciary duties. This subsection also provides that a fiduciary may serve as an officer, employee, agent, or other representative of a party in interest.

Subsection (e)(1)(A) provides that a fiduciary who breaches the responsibilities prescribed in subsection (b) or violates subsection (c) shall be liable to the Thrift Savings Fund for any resulting losses and must restore to the fund any profits made by the fiduciary

through the use of assets of such fund. The fiduciary shall be subject to other relief as a court considers appropriate, including removal of a fiduciary.

Subsection (e)(1)(B) provides that the Secretary of Labor may assess a civil penalty against a party in interest engaging in a prohibited transaction. The amount of the penalty shall be equal to 5 percent of the amount involved in each transaction for each year the transaction continues as defined in section 4975(f)(4) of the Internal Revenue Code, except in a case where the transaction is not corrected within 90 days after notice to the part in interest in violation, in which case the penalty may not amount to more than 100 percent of the amount involved.

Subsection (e)(1)(C) provides that a fiduciary shall not be liable for a breach of fiduciary responsibility committed before becoming a fiduciary or after ceasing to be fiduciary.

Subsection (e)(1)(D) provides that a fiduciary shall be liable for a breach of fiduciary responsibility of another fiduciary in addition to his/her own liability under subparagraph (A) if the fiduciary knowingly participates in or attempts to conceal an act or omission of another fiduciary, knowing such an action or omission is a breach; by the fiduciary's failure to comply with subsection (b) in the administration of the fiduciary responsibilities, if the fiduciary has enabled another fiduciary to commit such a breach; or the fiduciary has knowledge of a breach by another fiduciary and does not make efforts to remedy the breach.

Subsection (e)(1)(E) provides for the Secretary of Labor to prescribe by regulation the procedures for allocating fiduciary responsibilities among fiduciaries including the investment managers. It also provides that any fiduciary who, based on such procedures, allocates to a person any fiduciary responsibility shall not be liable for an act or omission of such person unless such fiduciary violated subsection (b) with respect to the allocation or implementation of the Board procedures or such fiduciary would otherwise be liable in accordance with subparagraph (D).

Subsection (e)(2)(A) provides that the Secretary of Labor may bring a civil action in the district courts of the United States to determine and enforce a liability under paragraph (1)(A) of this subsection, to collect any civil penalty under paragraph (1)(B) of this subsection or to enjoin any act or practice which violates section 8491(d)(2) or (e).

Subsection (e)(2)(B) provides that the Secretary of Labor, a participant, annuitant, former participant entitled to a deferred annuity, other beneficiary or fiduciary may bring a civil action in the district courts of the United States to enjoin any act or practice which violates any provision of subsection (b) or (c) or obtain any other appropriate relief to redress a violation of any such provision.

Subsection (e)(2)(C) provides that any participant, annuitant, former participant entitled to a deferred annuity or other beneficiary may bring suit in the district court of the United States to recover benefits due, enforce his/her rights, or clarify his/her rights to future benefits.

Subsection (e)(3) provides that an action brought about under paragraph (2) concerning a fiduciary's breach of responsibility under subsection (b) or violation or subsection (c) may not begin

after the earlier of 6 years after the date of the last breach or violation or, in the case of omission, the latest date on which the fiduciary could have cured the breach or violation or 3 years after the earliest date the plaintiff knew of the breach or violation, except in cases of fraud or concealment in which case the time period is 6 years after discovery.

Subsection (e)(4)(A) provides that district courts of the United States shall have exclusive jurisdiction of civil actions except those under paragraph (2)(C) which shall be under the concurrent jurisdiction of State and district courts of the United States.

Subsection (e)(4)(B) provides that an action under this subsection may be brought in the District Court of the United States for the District of Columbia or a district court of the United States where the alleged breach occurred or in the district of a defendant.

Subsection (e)(5) provides that a copy of the complaint or petition filed other than by the Secretary of Labor shall be served by certified mail on the Director, Executive Director, Secretary of Labor and the Secretary of the Treasury. Any of these officers may intervene in any action. If the action is brought by the Secretary of Labor, he shall notify these officers.

Subsection (f) provides that the Secretary of Labor may prescribe regulations to carry out this section including exemptions.

Subsection (g) provides that the Secretary of Labor in consultation with the Comptroller General shall establish a regular program to audit compliance with fiduciary requirements.

Section 8498. Bonding

This section provides for bonding of officials and financial institutions of the Thrift Savings Fund and specifies the officials and conditions under which they must be bonded.

Subsection (a)(1) provides that each fiduciary and person who handles funds or property of the Thrift Savings Fund shall be bonded with the exception referred to in (2).

Subsection (a)(2)(A) provides that a fiduciary shall be exempt from the bonding requirement if the fiduciary is a corporation operating under the laws of the United States or any State, is authorized under these laws to exercise trust powers or conduct insurance business, is subject to Federal or State authority, supervision and examination and has at all times a combined capital and surplus in excess of a minimum of not less than $1 million as set by the Secretary of Labor.

Subsection (a)(2)(B) provides that banks or other financial institutions which meet bonding requirements under State law which are equivalent to Federal requirements, as determined by the Secretary of Labor, may be exempt from the bonding requirements under this section under several conditions. These are banks or other financial institutions which are exempt from bonding requirements based on application of subparagraph (A), authorized to exercise trust powers, and not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

Subsection (b) provides for the Secretary of Labor to set the amount of a bond at the beginning of each fiscal year. The amount of the bond shall be no less than 10 percent of the amount of funds

handled or an amount no less than $1,000. The maximum amount shall be $500,000 except when set at a greater amount by the Secretary of Labor after due notice. It also provides that the amount of funds handled during the preceding fiscal year or the estimated amount during the current fiscal year will determine the amount of the bond as provided in regulations prescribed by the Secretary of Labor.

Subsection (c) provides that a bond shall include the terms and conditions the Secretary considers necessary to protect the Thrift Savings Fund against loss. It also provides that a bond have as surety a corporate surety company which is an acceptable surety on Federal bonds under authority granted by the Secretary of the Treasury and shall be in a form or of a type approved by the Secretary of Labor.

Subsection (d) provides that it shall be unlawful for any person covered by subsection (a) to receive, handle, disburse or exercise custody or control of funds of the Thrift Savings Fund without being bonded. It also provides that it shall be unlawful for any fiduciary or other person with authority to direct the performance of functions in paragraph (1) to permit the performance of such functions by any person who does not meet the bonding requirements as provided in subsection (a).

Subsection (e) provides that a person required to be bonded under subsection (a) shall be exempt from any other provision of law which would require bonding for handling funds or property of the Thrift Savings Fund.

Subsection (f) provides for the Secretary of Labor to prescribe regulations to carry out the provisions of this section and to exempt a person or class of persons from the requirements of this section.

Section 8499. Exculpatory provisions; insurance

Subsection (a) provides that any provision in an agreement or instrument which purports to relieve a fiduciary from responsibility or liability under this subchapter shall be void. Subsection (b) provides for the Executive Director to require agencies to contribute not more than 1 percent of the amount contributed to the Thrift Savings Fund under section 8421(b) to purchase insurance to cover potential liability of persons serving in a fiduciary capacity with respect to the Thrift Savings Fund.

Section 101 (b) amends the table of chapters at the beginning of part III of title 5 to insert after chapter 83 the following:

"84. Federal Retirement System .... 8401."

TITLE II—AMENDMENTS RELATING TO SOCIAL SECURITY

Section 201 amends section 210(a)(5) of the Social Security Act to cover prospective service performed by an employee who was subject to CSRS who opts to transfer to the FRS.

Section 202 amends section 3121(b)(5) of the Internal Revenue Code of 1954 to tax the wages of an individual described above.

TITLE III—MISCELLANEOUS AND CONFORMING AMENDMENTS

Section 301 extends the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 from January 1, 1986 until January 1, 1987.

Section 302(a) amends section 8331 of title 5, United States Code, to limit coverage under the CSRS for District of Columbia government employees to those first employed before January 1, 1987.

Section 302(b) amends section 8332 of title 5, United States Code, by adding a new subsection excluding participants in the FRS from receiving service credit under the CSRS, except in certain limited situations affecting participants retaining entitlement in the CSRS under section 8472.

Section 302(c) amends section 8333(b) of title 5, United States Code to modify the requirement that an employee or Member must complete at least one year of creditable service as a participant in the CSRS out of the last 2 years before separation to be eligible for an annuity based on that separation. The modification provides that service in the FRS will also count toward the one out of the last 2-year rule under CSRS. It also amends section 8333(c) by making the contribution requirements of Members applicable only to service performed while not a participant in the FRS.

Section 302(d) amends section 8334(a) of title 5, United States Code, relating to deductions from an employee's pay for both CSRS and Social Security coverage. An employee who was covered by the CSRS on December 31, 1983 and who was subsequently covered by Social Security will continue in the CSRS at a reduced contribution. The contribution to CSRS will be equal to the excess of the employee's normal CSRS contribution over the OASDI portion of the Social Security tax.

Section 302(e) amends section 8339 of title 5, United States Code, to provide that when an annuity to an individual is based on service that includes service covered by Social Security and by deductions withheld as described in section 8334(a), the annuity will be reduced at age 62 by an amount equal to the value of the Social Security benefit attributable to that period of service.

Section 302(f) amends section 8348(a) of title 5, United States Code, to clarify that the Civil Service Retirement and Disability Fund is available to pay benefits and administrative expenses for both chapters 83 and 84 of such title.

Section 303 amends section 1005(d) of title 39, United States Code, to include officers and employees of the Postal Service for coverage under the provisions of chapters 83 and 84 of title 5.

Section 304(a) amends section 8901(1)(E) of title 5, United States Code, to limit coverage under the Federal Employees' Health Benefits Program for District of Columbia employees to such employees first covered before January 1, 1987.

Sections 304(b) and (c) amend sections 8901(10) and 8905(c) of title 5, United States Code, to incorporate health benefit plan eligibility requirements for former spouses as a result of P.L. 98–615; section 304(c) also amends section 8905(b) to permit a family member of a deceased employee or annuitant who was enrolled in a health benefits plan to continue that enrollment.

Section 305 amends section 2105(c) of title 5 to provide that chapter 84 does not apply to employees of certain nonappropriated fund instrumentalities.

Section 306 amends paragraph (7)(D) of section 6103(1) of the Internal Revenue Code of 1954 to permit disclosure of earnings records for the purpose of administering the FRS disability benefits program.

Section 307 amends section 8113 of title 5, United States Code, to provide that compensation payable under this subchapter to an individual entitled to benefits under the FRS will be reduced by the amount of benefits which are or upon application would be payable under title II of the Social Security Act based on the individual's service under the FRS.

Section 308(a) amends section 8701 of title 5, United States Code, to limit coverage under the Federal Employees' Group Life Insurance program to District of Columbia employees first covered before January 1, 1987.

Section 308(b) amends section 8704 of title 5, United States Code, to provide that FRS participants who elect to make a contribution under section 8418(c) and are covered by the Federal Employees' Group Life Insurance program who die in service are eligible for a benefit equal to approximately two times salary.

Section 308(c) amends section 8705 of title 5, United States Code, to permit an individual entitled to receive the basic life insurance benefit based on the death of an FRS participant to elect to receive it in monthly payments over a 2-year period.

Section 308(d) amends section 8708 of title 5, United States Code, to authorize payment of the Government's share of the life insurance premium for employees who, after December 31, 1989, elect to continue insurance while receiving an annuity or workers' compensation.

Section 308(e) amends sections 8706, 8714a, 8714b, and 8714c to permit continued coverage for up to 12 months for an employee who enters on active military duty or active duty for training in the same way coverage is continued for other nonpay status.

Section 309 amends section 376 of title 28, United States Code, section 7448 of the Internal Revenue Code, and sections 1567 and 1568 of title II of the District of Columbia Code to modify the judicial survivor annuity benefits payable under these sections for individuals who first become eligible for annuities on or after the effective date of this Act. The net effect is to increase both contribution rates and benefit formulas.

TITLE IV—AUTHORIZATIONS, APPLICATION, AND EFFECTIVE DATES

Section 401 provides for payment of the fiscal year 1986 and 1987 expenses of the Federal Retirement Thrift Investment Board from appropriations.

Section 402 requires OPM to take appropriate action during fiscal years 1986 and 1987 to make available the information described in section 8469 of title 5, United States Code, and authorizes $1 million to be appropriated for this purpose.

Section 403 provides that except for the provisions of subchapter VII of chapter 84 of title 5, as added by section 101(a) of this Act,

and the amendments made by title III of this Act, nothing in this Act shall reduce the accrued entitlements of current and retired Federal employees and their families to future benefits under the CSRS or any other Federal retirement and disability system.

Section 404 provides that this Act takes effect January 1, 1987, except for subchapter VIII of chapter 84 (relating to the Federal Retirement Thrift Investment Management System) and sectin 301 (relating to extension of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983) which take effect on the date of enactment, and the loan program required by section 8426(e), which must be established not later than January 1, 1988.

III. Evaluation of Regulatory Impact

Paragraph 11(b)(1) of Rule XXVI requires each report accompanying a bill to evaluate "the regulatory impact which would be incurred in carrying out the bill." S. 1527 will have a regulatory impact.

S. 1527 establishes a board to invest the moneys and administer the provisions of the thrift plan. Moneys available for non-Federal investment will be invested through fixed income contracts with private sector entities and through a common stock index fund.

Those private sector entities involved in the management or investment of the Thrift Plan moneys will be subject to ERISA like fiduciary standards and obligations regulated and enforced by the Department of Labor. For the most part these groups will already be subject to ERISA standards.

IV. Estimated Cost of Legislation

U.S. Congress,
Congressional Budget Office,
Washington, DC.

Hon. William V. Roth, Jr.,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: In accordance with Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the enclosed cost estimate for S. 1527, the Federal Retirement Reform Act of 1985, as ordered reported by the Senate Committee on Governmental Affairs on October 2, 1985, and amended for technical reasons. The estimate represents the budgetary effects of the bill relative to the CBO baseline.

Mainly because employees now covered by the civil service retirement system could select a different retirement plan, S. 1527 would reduce the budget deficit in 1991 by an estimated $1.6 billion. But much of this effect depends upon the on-budget retention of tax-deferred savings plan contributions. Beginning in 1997, however, both the annual employee and matching agency contributions could be invested in marketable rather than special U.S. securities. If, as would be possible in 1997, all 1991 contributions were invested in marketable securities, outlays would increase and the bill's estimated deficit reduction of $1.6 billion would change into an estimated deficit increase of $1.7 billion.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 1527.
2. Bill title: Federal Retirement Reform Act of 1985.
3. Bill status: As ordered reported by the Senate Commitee on Governmental Affairs on October 2, 1985, and amended for technical reasons.
4. Bill purpose: The Federal Retirement Reform Act of 1985 would create a new retirement system for Federal civilian employees. S. 1527 would encourage individuals to save for their retirement, facilitate career mobility, and increase financial planning options for each employee with respect to retirement. The bill also would require agencies' operating budgets to reflect the future cost of pensions for certain federal workers, including nearly all new hires.

If enacted, S. 1527 would allow some 2.2 million Federal workers hired before January 1984, including approximately 510,000 U.S. Postal employees, to select among three retirement systems for their remaining years of Federal employment: The civil service retirement (CSR) system that they currently participate in, and two options that build upon Social Security's old-age and disability (OASDI) programs. (Regardless of the individual's choice, the bill would protect CSR benefits earned up to the selection date.) Nearly all employees hired after January 1984, who by law are covered by Social Security, could select only between the two options that build upon Social Security.

Three tiers of benefits form Option 1 and Option 2: Social Security, a tax-deferred savings plan, and a defined-benefit plan based on years of service and average annual earnings over 5 years. The differences between the options involve the level of employee contributions and the relative size of benefits available from the savings plan and from the defined-benefit tier. Option 1 has no mandatory employee contributions except the Social Security payroll tax but would encourage participation in the voluntary savings plan through its dollar-for-dollar agency match on employee contributions up to 5 percent of pay. The Social Security tax for the OASDI programs is now 5.7 percent of annual earnings up to $39,600. The 5.7 percent rate will rise eventually to about 6.1 percent.

Option 2 requires a 7 percent contribution, including the Social Security tax, and graduates the voluntary savings plan's match: dollar-for-dollar on the first 1 percent of pay contributed, 50¢ on the dollar for the next 2 percent of pay contributed, and 25¢ on the dollar for any employee contributions between 3 and 6 percent of pay. (An individual saving 6 percent of salary under Option 2 would receive a government match equal to 2.75 percent of salary.) Option 2's less generous savings plan and its higher mandatory employee contributions would offset additional defined-benefit costs in

two areas: early retirement at age 55 after 30 or more years of service, and better protection against post-retirement inflation.

5. Estimated cost to the Federal Government: The estimated near-term budgetary impacts of S. 1527, set forth in this cost estimate, consider the old-age retirement provisions of the bill. They do not address benefit differences concerning various survivor and disability provisions nor special provisions for certain select groups of employees. In addition, CBO has no basis to determine the costs associated with either the bill's loan program for which details have yet to be established, or its administrative requirements, including those for private-sector contractors who may manage the long-term disability (LTD) program. Thus, no budgetary cost is estimated in these areas through 1991.

Assuming enactment of S. 1527 prior to January 1986, Table 1 shows the budgetary effects through 1991 relative to the CBO baseline. During that period, on a cumulative basis, revenues would fall by $4.5 billion; offsetting receipts—including all U.S. Postal Service payments and voluntary employee contributions to savings plans—would increase by $13.9 billion; and outlays would grow by some $2.5 billion. The operating expenses of Federal agencies would rise in accordance with the bill's accrual cost requirements. Higher operating expenses, this CBO estimate presumes, would require larger annual appropriations of budget authority. This additional budget authority for 1987–1991 would exceed $14 billion but would not affect the size or timing of federal outlays. (See Table 2 for detailed budgetary estimates.) The estimated revenue loss derives from lower withheld mandatory employee contributions for Option 1 participants and from both of the voluntary savings plans that would postpone the federal taxation of income in a manner similar to the Internal Revenue Code's treatment of Section 401(k) plans.

TABLE 1.—TOTAL NET BUDGETARY EFFECT OF S. 1527 RELATIVE TO THE CBO BASELINE, BY FISCAL YEAR

[In billions of dollars]

	1987	1988	1989	1990	1991
Estimated revenue loss [1]	0.53	0.80	0.96	1.06	1.16
Estimated rise in offsetting receipts (negative outlays) [2]	−1.26	−2.46	−2.98	−3.38	−3.80
Estimated outlay increase	0.02	0.19	0.48	0.83	1.02
Estimated increase or decrease (−) in the deficit	−0.71	−1.47	−1.54	−1.50	−1.61
Estimated increase in Agency: Operating expenses (budget authority) [3]	1.27	2.72	3.15	3.47	3.76

[1] Revenue losses in this table are identified as positive numbers because they increase the deficit.

[2] Any rise in postal payments to the retirement accounts represents new offsetting receipts. Higher offsetting receipts reduce net budgetary costs. The estimate assumes that higher retirement costs are offset by changes in postage rates or USPS operations, so that the Postal Service deficit, over time, would be unchanged.

[3] Estimates represent the increase in on-budget agency operating expenses that derived from contributions necessary to fund the new retirement and savings plans on an accrual basis. Higher agency operating expenses presumably would result in larger appropriations.

The budget authority estimates exclude intrabudgetary transactions for amortization of unfunded liabilities, and for interest earnings from U.S. securities.

To help cover the costs of informing employees about their retirement plan choices, the bill would authorize an appropriation to the Office of Personnel Management of $1 million for 1986.

Note: Details may not add to totals because of rounding.

The bill would reduce the Federal deficit over the 1987–1991 period by some $6.8 billion. About 80 percent of the cumulative deficit reductions would occur because a sizable number of current

CSR participants would probably switch into the new retirement system (see Table 3 and Table 4). In 1991, for example, employees who would switch account for almost $1.3 billion of that year's total deficit reduction of $1.6 billion. Much of the estimated reductions, however, depend upon the on-budget retention of savings plan contributions (employee and agency). If, as would be permitted by the bill beginning in 1997, all of the employee and matching agency contributions in 1991 were invested in markeable securities, the estimated deficit reduction of $1.6 billion would change into an estimated deficit increase of $1.7 billion.

The long-term cost impacts of S. 1527 are beyond the scope of this estimate. But it appears that the Government's cost for Federal retirement for new employees would decline. The Congressional Research Service estimates that the long-term funding requirements for Option 1 and for Option 2 would equal an annual government investment for a new group of employees of nearly 22 percent of covered payroll. AThe analagous estimated cost for benefits under the CSR system that now applies to most federal workers is 25 percent.

A potential increase in Government costs for certain employees now covered by the CSR system is not apparent in this standard 5-year cost estimate. Individuals who switch from the CSR to either one of the new options presumably would act to maximize their future compensation. Despite near-term cash flow increases to the U.S. Treasury, CBO estimates that 387,000 CSR participants, who currently plan to retire between 1991 and 2001, would switch to one of the new retirement plans and, in so doing, cause future Federal costs to rise. The eventual cost increase arises because these employees could maximize their tax advantages and their retirement benefits by switching. For certain individuals the estimated net increase in the present value of additional compensation would exceed $20,000.

Basis of estimate: The behavior of current CSR participants is the critical factor in calculating near-term budgetary effects. But determining how employees will behave when confronted with a choice among three retirement plans is uncertain at best and requires consideration of many factors: protection from inflation, the "tilt" or redistribution, of Social Security benefits toward lower paid employees, marital status, the cost and availability of spousal benefits, and the Federal income tax advantages that derive from the voluntary savings plans as well as from Social Security benefits that are at least 50 percent tax exempt. In addition, Federal employees have different savings patterns that reflect their age, family status, and financial circumstances, as well as their perceptions about future price increases, individual salary growth, rate of return on investment, and income needs during retirement. Finally, the remaining number of years that an employee expects to work for the Government—versus retiring or working elsewhere—is another key factor in deciding which option to select.

How would employees weigh all of these element? The CBO approached this question by estimating the present value of the additional benefits that would derive for service performed from January 1987 to a projected date of retirement. This required the comparison of three alternate sets of benefit payments (CSR, Option 1,

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and Option 2) for various age, income and service combinations. In each case the future benefit payments and estimated tax advantages were discounted back to the earliest point at which a person could select among the three retirement plans—January 1987.

The usefulness of present value comparisons is limited and depends upon the reasonableness of underlying economic assumptions (inflation, pay raises, and interest rates). Also underlying the comparisons is the premise that individuals can foresee their future career and retirement plans with a reasonable amount of confidence. Obviously, the longer the period of time between the 1987 decision point and retirement eligibility, the more uncertain the comparison. Finally, some individuals—especially younger workers—place a higher premium on current consumption and less value on deferred compensation, including pensions. In view of these qualifications, the CBO analysis uses present value comparisons primarily for cases where retirement occurs prior to the year 2002.

The following sections describe the possible effects of certain Social Security windfall benefit provisions in S. 1527, how the estimate distributes employees between the CSR system and Social Security coverage, the bill's impact on the Postal Service, assumptions in the CBO baseline, and tables detailing estimated impacts.

Social Security Windfall Benefits.—The present value analysis indicates that elimination of the windfall benefit offset would become an important consideration for many CSR participants. The windfall benefit offset was enacted in 1983 to distinguish between workers with low average earnings—who benefit from Social Security's distributional tilt—and Federal and State pensioners who have relatively short periods of work covered by Social Security. S. 1527 would eliminate the windfall benefit offset for individuals participating in either of the two new retirement options for at least 5 years. This would generate a high rate of return on the Social Security contributions for individuals with certain age and federal service characteristics.

Employment Distribution.—A major task in estimating the impact of S. 1527 is projecting the relative number of Federal employees as of January 1987 either covered by the CSR system alone, or by Social Security's OASDI programs. Data provided by the Office of Personnel Management and the U.S. Postal Service suggest that the estimated number of employees hired by the Government through 1991 and subject to the CSR system or its replacement would total 196,000 annually. Some of these new hires replace workers hired since January 1984, who are already covered by Social Security. To determine how rapidly the pre-1984 CSR population diminishes and how Social Security coverage grows under current law, the CBO requested staff of the Office of Management and Budget to apply annual retirement, disability, death and turnover rates to the current workforce through the year 2025. These results helped isolate the 2.2 million employees projected to choose between CSR and Option 1 or Option 2 during calendar year 1987.

Impact on the Postal Service.—The bill would require full agency funding for employees covered by either of the new retirement options. Thus, S. 1527 would raise the retirement costs funded by the

U.S. Postal Service (USPS). For the purpose of this estimate, CBO assumes that the USPS would generate the necessary funds to cover larger payments to federal retirement accounts by adjusting postage rates or by other means. Over the long run, therefore, the bill would likely affect the timing and magnitude of postal rate increases. Under this assumption, Postal Service deficits over time would be approximately the same with or without this bill.

The CBO Baseline.—The 5-year baseline, against which the effects of S. 1527 are measured, assumes that newly hired employees covered by Social Security contribute 1.3 percent of pay to CSR.

Employee contributions to the tax-deferred savings plan reduce federal income tax revenues relative to CBO's baseline, and increase offsetting receipts on the outlay side of the budget. (Employee contributions are elective rather than mandatory, and thus count as offsetting receipts rather than revenues.) The assumed employee contribution rates adopted by CBO are consistent with those used by the Congressional Research Service and developed by Hay Associates. The CBO adjusted participation rates to consider variations among income levels and age groups, and allowed for the effects of employee contributions in excess of the level matched by the employing agency.

Estimated agency contributions for the defined-benefit tier equal 12 percent of pay for Option 1 and 13.5 percent for Option 2. In addition, the Department of Defense is assumed to contribute 1.5 percent of covered payroll for the Federal civilian retirement benefits that derive from the time served by newly hired workers in the U.S. military.

Supporting Tables.—Table 2 sets forth details of estimated budgetary impacts for the entire federal workforce. Table 3, 4, and 5 provide separate estimates for two groups of employees: new workers hired after January 1984 and covered by Social Security, and pre-1984 CSR participants who select Option 1 or Option 2.

6. Estimated cost to State and local governments: None.
7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Earl Armbrust, David Delquadro, Sherri Kaplan, and Larry Ozanne.
10. Estimate approved by: Robert A Sunshine (for James L. Blum, Assistant Director, Budget Analysis).

TABLE 2.—DETAIL OF ESTIMATED BUDGETARY EFFECTS OF S. 1527 RELATIVE TO THE CBO BASELINE, BY FISCAL YEAR

[In billions of dollars]

	1987	1988	1989	1990	1991
ESTIMATED REVENUE EFFECTS					
Effect on payroll taxes of changes in employee contributions	−0.24	−0.45	−0.55	−0.55	−0.54
Effect on Federal income taxes of participation in the savings plans	−0.29	−0.35	−0.42	−0.51	−0.62
Subtotal	−0.53	−0.80	−0.96	−1.06	−1.16
ESTIMATED INCOME FROM OFFSETTING RECEIPTS (NEGATIVE OUTLAYS)					
Employee thrift contributions	−0.75	−1.56	−1.93	−2.20	−2.50
Payments from the U.S. Postal Service [1]	−0.51	−0.90	−1.05	−1.19	−1.30
Subtotal	−1.26	−2.46	−2.98	−3.38	−3.80

TABLE 2.—DETAIL OF ESTIMATED BUDGETARY EFFECTS OF S. 1527 RELATIVE TO THE CBO BASELINE, BY FISCAL YEAR—Continued

[In billions of dollars]

	1987	1988	1989	1990	1991
OTHER ESTIMATED OUTLAY EFFECTS					
Investment of employee thrift contributions in marketable securities		0.12	0.34	0.60	0.94
Payments to employees who leave [2]	0.02	0.08	0.14	0.22	0.33
Lower CSR outlays due to later retirements					−0.25
Subtotal	0.02	0.19	0.48	0.83	1.02

[1] These payments include increased amounts to fund the new retirement and savings plans.
[2] Payments include refunds of employee contributions, savings plan money contributed by employing agencies, and investment earnings.
NOTE: Details may not add to totals because of rounding.

TABLE 3.—NET BUDGETARY EFFECT OF S. 1527 FOR EMPLOYEES HIRED AFTER JANUARY 1984 RELATIVE TO THE CBO BASELINE, BY FISCAL YEAR

[In billions of dollars]

	1987	1988	1989	1990	1991
Estimated revenue loss [1]	0.15	0.24	0.33	0.44	0.56
Estimated rise in offsetting receipts (negative outlays) [2]	−0.29	−0.52	−0.74	−1.03	−1.36
Estimated outlay increase [3]	[4]	0.04	0.12	0.26	0.47
Estimated deficit effect	−0.13	−0.24	−0.30	−0.33	−0.33
Estimated increase in agency operating expenses	0.04	0.10	0.16	0.18	0.25
Estimated number of employees affected (in thousands)	[5] 606	735	856	971	1,081

[1] Revenue losses in this table are identified as positive numbers because they increase the deficit.
[2] For estimating purposes, CBO assumes new hires select Option 1 and, in 1991, contribute an average of 3.4 percent of covered payroll to the savings plan. That year's matching contributions from employing agencies average an estimated 2.4 percent.
[3] Annual outlays increase for two main reasons: (1) higher refunds to separating employees, which includes savings plan contributions that roll into Individual Retirement Accounts; and (2) investments in marketable securities. In the latter case the estimate assume that half of the annual amounts eligible will be invested in marketable securities rather than special U.S. issues.
[4] Estimated at $5 million.
[5] The 1987 employment estimate includes some 459,000 employees who are on board as of January 1987, and the annual hiring of some 196,000 employees.

Note: Details may not add to totals because of rounding.

TABLE 4.—NET BUDGETARY EFFECT OF S. 1527 FOR EMPLOYEES HIRED BEFORE JANUARY 1984 RELATIVE TO THE CBO BASELINE, BY FISCAL YEAR

[In billions of dollars]

	1987	1988	1989	1990	1991
Estimated revenue loss [1]	0.38	0.56	0.64	0.63	0.61
Estimated rise in offsetting receipts (negative outlays)	−0.97	−1.94	−2.23	−2.23	−2.45
Estimated outlay increase [2]	0.02	0.15	0.35	0.54	[3] 0.55
Estimated deficit effect	−0.58	−0.96	−1.24	−1.16	−1.28
Details for estimated increase in Agency operating costs (budget authority):					
Change from 7 percent CSR witholding rate [4]	0.83	1.77	2.01	2.44	2.42
Savings plan payments	0.40	0.85	0.99	0.85	1.08
Total	1.23	2.62	3.00	3.29	3.51

[1] Revenue losses in this table are identified as positive numbers because they increase the deficit.
[2] Annual outlays increase mainly because the estimate assumes that half of the annual amounts eligible will be invested in marketable securities rather than special U.S. held on-budget.
[3] Estimate assumes that about 20,000 employees who would retire in 1991 under current law will switch to one of the two new plans and will postpone their retirement. Thus outlays fall by about $250 million.
[4] Estimated represent the increase necessary to fund the defined-benefit plans for Option 1 and Option 2 plus Social Security's payroll tax minus CSR contributions. The 1.5 percent estimated payment for military service credit does not apply. Thus the estimated annual accrual charge for Option 1's defined-benefit plan is 12.0 percent and Option 2's charge is 13.5 percent.

Note: See Table 5 for key assumptions used in preparing these estimates. Details may not add to totals because of rounding.

TABLE 5.—KEY ASSUMPTIONS USED IN ESTIMATING NEAR-TERM BUDGETARY EFFECTS OF S. 1527 FOR FEDERAL EMPLOYEES HIRED BEFORE JANUARY 1984

Group Description	Employee population group: Group 1	Group 2	Group 3	Group 4	All groups
	Employees who would retire under current law, in 1987–91	Employees who separate for reasons other than retirement in 1987–91	Employees who retire in 1992–2001	Employees who retire after 2001 as well as employees separating after 1991	
Population variables:					
Estimated populations, as of January 1987 (in thousands)	410	320	580	910	2,220
Percent remaining in CSR	96	50	33	50	54
Percent switching to option #1	2	50	33	50	37
Percent switching to option #2	2	0	33	0	9
Effective savings plan contribution rates for employees selecting option 1 or option 2: [1]					
Average effective rates under option #1 (as percent of covered payroll): [2]					
Employee	5.8	5.3	5.5	5.3	5.4
Agency	4.1	3.8	3.9	3.8	3.8
Average effective rates under option #2 (as percent of covered payroll): [2]					
Employee [3]	4.7	NA	4.0	NA	4.1
Agency	2.1	NA	1.9	NA	1.9

[1] Estimate assumes that about 20,000 employees who would retire in 1991 under current law will switch to new plans, evenly dividing between Option 1 and Option 2, and will postpone their retirement in order to realize windfall benefits from Social Security coverage.
[2] Cost estimates assume that at any given time 90 percent of Option 1 and Option 2 participants contribute to voluntary savings plans.
[3] In addition to the savings plan contributions under Option 2, participants are required to contribute additional amounts, not shown here, toward their defined benefit plan. The annual mandatory contribution rate equals the difference between 7 percent of payroll and the statutory rate for OASDI.

V. Record Vote in Committee

OCTOBER 2, 1985

In compliance with paragraph 7(c) of Rule XXVI of the standing rules of the Senate, the rollcall votes taken during committee consideration of this legislation are as follows:

Vote on Chiles amendment to require the Government match to the Thrift Plan be held in Government securities: 5 yeas—8 nays

YEAS	NAYS
EAGLETON	STEVENS
CHILES	MATHIAS
NUNN	COHEN
GLENN	DURENBERGER
GORE	RUDMAN
	COCHRAN
	LEVIN
	ROTH

Final passage: Ordered reported, 12 yeas—0 nays

YEAS	NAYS
STEVENS	
MATHIAS	
COHEN	

DURENBERGER
COCHRAN
EAGLETON
CHILES
NUNN
GLENN
LEVIN
GORE
ROTH
(By PROXY)[1]
RUDMAN

[1] Committee rules provide that on "Final Passage" proxies may be allowed solely for the purpose of recording a member's position on the pending question.

VI. Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no changes is proposed is shown in roman):

UNITED STATES CODE

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

* * * * * * *

CHAPTER 21. DEFINITIONS

* * * * * * *

§ 2105. Employee

(a) * * *

* * * * * * *

(c) An employee paid from nonappropriated funds of the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Ship's Stores Ashore, Navy exchanges, Marine Corps exchanges, Coast Guard exchanges, and other instrumentalities of the United States under the jurisdiction of the armed forces conducted for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the armed forces is deemed not an employee for the purpose of—

(1) laws (other than subchapter IV of chapter 53 and sections 5550 and 7204 of this title administered by the Office of Personnel Management; or

(2) subchapter I of chapter 81, *chapter 84,* and section 7902 of this title.

This subsection does not affect the status of these nonappropriated fund activities as Federal instrumentalities.

* * * * * * *

CHAPTER 81. COMPENSATION FOR WORK INJURIES

*   *   *   *   *   *   *

§ 8113. Increase or decrease of basic compensation

(a) * * *

*   *   *   *   *   *   *

(c) The monthly basic compensation payable under this subchapter to an employee or former employee who is a participant or former participant in the Federal Retirement System under chapter 84 of this title shall be reduced by the amount of the benefits which are payable or, upon proper application, would be payable for the month to such employee or former employee under title II of the Social Security Act based on the service of such employee or former employee.

*   *   *   *   *   *   *

CHAPTER 83. RETIREMENT

*   *   *   *   *   *   *

§ 8331. Definitions

For the purpose of this subchapter—

(1) "employee" means—

*   *   *   *   *   *   *

[(G) an individual employed by the government of the District of Columbia;] *(G) an individual first employed by the government of the District of Columbia before January 1, 1987;*

*   *   *   *   *   *   *

§ 8332. Creditable service

*   *   *   *   *   *   *

(n) Except as provided in section 8472(b) of this title, service performed while a participant in the Federal Retirement System under chapter 84 of this title is not creditable under this section.

*   *   *   *   *   *   *

§ 8333. Eligibility for annuity

*   *   *   *   *   *   *

(b) An employee or Member must complete, within the last 2 years before any separation from service, except a separation because of death or disability, at least 1 year of creditable civilian service during which he is subject to this subchapter *or chapter 84 of this title* before he or his survivors are eligible for annuity under this subchapter *or chapter 84 of this title* based on the separation. If an employee or Member, except an employee or Member separated from the service because of death or disability, fails to meet the service requirement of the preceding sentence, the amounts deduct-

ed from his pay during the service for which no eligibility for annuity is established based on the separation shall be returned to him on the separation. Failure to meet this service requirement does not deprive the individual or his survivors of annuity rights which attached on a previous separation.

(c) A Member or his survivor is eligible for an annuity under this subchapter only if the amounts named by section 8334 of this title have been deducted or deposited with respect to his last 5 years of civilian service, or, in the case of a survivor annuity under section 8341(d) or (e)(1) of this title, with respect to his total service. *The requirements of the first sentence shall apply only with respect to the civilian service performed by a Member while not a participant in the Federal Retirement System under chapter 84 of this title.*

*   *   *   *   *   *   *

(a)(1) [The employing] *Except as provided in paragraph (3) of this subsection, the employing* agency shall deduct and withhold 7 percent of the basic pay of an employee, 7½ percent of the basic pay of a Congressional employee, a law enforcement officer, and a firefighter, and 8 percent of the basic pay of a Member and a judge of the United States Court of Military Appeals and a bankruptcy judge. An equal amount shall be contributed from the appropriation or fund used to pay the employee or, in the case of an elected official, from an appropriation or fund available for payment of other salaries of the same office or establishment. When an employee in the legislative branch is paid by the Clerk of the House of Representatives, the Clerk may pay from the contingent fund of the House the contribution that otherwise would be contributed from the appropriation fund used to pay the employee.

*   *   *   *   *   *   *

§ 8334. Deduction, contribution, and deposits

(a) * * *

*   *   *   *   *   *   *

(3)(A) In the case of an employee or Member who was subject to this subchapter before January 1, 1984, and whose service—

(i) is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954; and

(ii) is not creditable service for any purpose under chapter 84 of this title,

an employing agency shall deduct and withhold from the basic pay of the employee or Member under paragraph (1) of this subsection during any pay period only the amount computed pursuant to subparagraph (B) of this paragraph.

(B) The amount deducted and withheld from basic pay during any pay period pursuant to subparagraph (A) of this paragraph in the case of an employee or Member referred to in such subparagraph shall be the excess of—

(i) the amount determined by multiplying the percent applicable to the employee or Member under paragraph (1) of

this subsection by the basic pay payable for such pay period, over

(ii) the amount of the taxes deducted and withheld from such basic pay under section 3101(a) of the Internal Revenue Code of 1954 for such pay period.

* * * * * * *

§ 8339. Computation of annuity

(a) * * *

* * * * * * *

(o)(1) Effective on the first day of the month in which an annuitant or a survivor annuitant becomes 62 years of age, the annuity or survivor annuity computed under the other subsections of this section and payable to the annuitant or a survivor annuitant shall be reduced (but not below zero) by the amount determined by multiplying the amount of the old-age and survivors insurance benefits which the annuitant or survivor annuitant is entitled to receive under section 202 of the Social Security Act for the such month, if any, by a fraction—

(A) the numerator of which is the total of the wages (within the meaning of section 209 of the Social Security Act) for service which is referred to in paragraph (2) of this subsection for years before the calendar year in which such month occurs, and

(B) the denominator of which is the total of all wages (within the meaning of section 209 of the Social Security Act) and all self-employment income (within the meaning of section 211(b) of the Social, Security Act)—

(i) of such annuitant, or

(ii) in the case of a survivor annuitant, of the employee or Member on whose service the survivor annuity is based.

credited for years after 1936 and before the calendar year in which such month occurs.

(2) The service referred to in paragraph (1)(A) of this subsection is service which is covered by amounts deducted and withheld as provided in section 8334(a)(3) of this title, is service described in subparagraphs (C) through (G) of section 210(a)(5) of the Social Security Act, and is taken into account for the purpose of computing the annuity or survivor annuity to which paragraph (1) of this subsection applies.

* * * * * * *

§ 8348. Civil Service Retirement and Disability Fund

(a) There is a Civil Service Retirement and Disability Fund. The Fund—

(1) is appropriated for the payment of—

(A) benefits as provided by this subchapter *or the provisions of chapter 84 of this title which relate to benefits payable out of the Fund; and*

(B) administrative expenses incurred by the Office of Personnel Management in placing in effect each annuity adjustment granted under section 8340 of this title, in administering survivor annuities and elections providing

therefor under sections 8339 and 8341 of this title, and in withholding taxes pursuant to section 3405 of title 26; and

(2) is made available, subject to such annual limitation as the Congress may prescribe, for any expenses incurred by the Office in connection with the administration of this chapter, *chapter 84 of this title,* and other retirement and annuity statutes.

* * * * * * *

CHAPTER 87. LIFE INSURANCE

* * * * * * *

§ 8701. Definitions

(a) For the purpose of this chapter [5 USCS §§ 8701 et seq.], "employee" means—

* * * * * * *

[(6) an individual employed by the government of the District of Columbia;**]**

(6) an individual first employed by the government of the District of Columbia before January 1, 1987;

* * * * * * *

§ 8704. Group insurance; amounts

(a) An employee eligible for insurance is entitled to be insured for an amount of group life insurance equal to—

(1) the employee's basic insurance amount, multiplied by

[(2) the**]** *(2)(A) two, in the case of a participant in the Federal Retirement System under chapter 84 of this title who has elected to make contributions under section 8418(c) of this title, has not received a refund of such contributions under section 8420 of this title, and dies before retiring under such system; or*

(B) in the case of an employee other than a participant to which subparagraph (A) of this paragraph applies, the appropriate factor determined on the basis of an employee's age in accordance with the following schedule:

"If the age of the employee is:	The appropriate factor is:
35 or under	2.0
36	1.9
37	1.8
38	1.7
39	1.6
40	1.5
41	1.4
42	1.3
43	1.2
44	1.1
45 or over	1.0.

* * * * * * *

§ 8705. Death claims; order of precedence; escheat

(a) * * *

*   *   *   *   *   *   *

(e)(1) Under regulations prescribed by the Office of Personnel Management, any person entitled to receive payment of insurance under this section by reason of the death of a person referred to in section 8704(a)(2)(A) of this title may elect to receive such payment in monthly payments payable for a period of 2 years.

(2) Insurance shall be paid in accordance with an election made under paragraph (1) of this subsection.

*   *   *   *   *   *   *

§ 8706. Termination of insurance; assignment of ownership

*   *   *   *   *   *   *

[(c) The insurance granted to an employee stops, except for a 31-day extension of life insurance coverage, on the day immediately before his entry on active duty or active duty for training unless the period of duty is covered by military leave with pay. The insurance does not stop during a period of inactive duty training. For the purpose of this subsection, the terms "active duty," "active duty for training," and "inactive duty training" have the meanings given them by section 101 of title 38 [38 USCS § 101].**]**

[(d)**]** *(c)* Notwithstanding subsections (a) and (b) of this section, an employee who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees as defined by section 8701(a) of this title [5 USCS § 8701(a)], within 60 days after entering on that leave without pay, may elect to continue his insurance and arrange to pay currently into the Employees' Life Insurance Fund, through his employing agency, both employee and agency contributions from the beginning of leave without pay. The employing agency shall forward the premium payments to the Fund. If the employee does not so elect, his insurance will continue during nonpay status and stop as provided by subsection (a) of this section.

[(e)**]** *(d)* If the insurance of an employee stops because of separation from the service or suspension without pay, and the separation or suspension is thereafter officially found to have bene erroneous, the employee is deemed to have been insured during the period of erroneous separation or suspension. Deductions otherwise requird by section 8707 of this chapter shall not be withheld from any backpay awarded for the period of separation or suspension unless death or accidental dismemberment of the employee occurs during such period.

[(f)**]** *(e)* Under regulations prescribed by the Office, each policy purchase under this chapter shall provide that an insured Federal judge may make an irrevocable assignment of the judge's incidents of ownership in the policy.

*   *   *   *   *   *   *

§ 8708. Government contributions

[(a) For] *(a)(1) Except as provided in paragraph (2) of this subsection, for* each period in which an employee is insured under a policy of insurance purchased by the Office of Personnel Management under section 8709 of this title, a sum equal to one-half the amount which is withheld from the pay of the employee under section 8707 of this title shall be contributed from the appropriation or fund which is used to pay him.

(2) In the case of each employee who after December 31, 1989, elects to continue insurance as provided in subsection 8706(b)(3)(A) of this title while receiving annuity or workers' compensation, the Office shall contribute a sum equal to one-half the amount which is withheld from the employee's annuity or compensation pursuant to subsection 8707(b) of this title. The contribution shall be made out of annual appropriations which are made for the purposes of this paragraph. Sums appropriated pursuant to this authorization shall remain available until expended.

* * * * * * *

§ 8714a. Optional Insurance

(a) * * *

* * * * * * *

[(c)(1) The optional insurance on an employee stops on his separation from service, 12 months after discontinuance of his pay, or on his entry on active duty or active duty for training, as provided in sections 8706(a) and 8706(c) of this title [5 USCS § 8706(a), 8706(c)].]

(c)(1) Except as otherwise provided in this subsection, the optional insurance on an employee stops on his separation from service or 12 months after discontinuance of his pay, whichever is earlier, subject to a provision for temporary extension of life insurance converage and for conversion to an individual policy of life insurance under conditions approved by the Office.

* * * * * * *

§ 8714b. Additional optional life insurance

(a) * * *

* * * * * * *

(c)(1) [The additional optional insurance elected by an employee pursuant to this section shall stop on separation from service, 12 months after discontinuance of pay, or on entry on active military duty or active duty for training, subject to provision for a 31-day temporary extension of insurance coverage and for conversion to an individual policy, as provided in sections 8706(a) and 8706(c) of this title [5 USCS §§ 8706(a), (c).] *Except as otherwise provided in this subsection, the additional optional insurance elected by an employee pursuant to this section shall stop on separation from service or 12 months after discontinuance of his pay, whichever is earlier, subject to a provision for temporary extension of life insurance coverage and for conversion to an individual policy of life insurance under conditions approved by the Office.* A justice or judge of the

United States as defined by section 8701(a)(5) of this title who resigns his office without meeting the requirements of section 371(a) of title 28, United States Code, for continuation of the judicial salary shall have the right to convert additional optional life insurance coverage issued under this section during his judicial service to an individual policy of life insurance under the same conditions approved by the Office governing conversion of basic life insurance coverage for employees eligible as provided in section 8706(a) of this title.

* * * * * * *

§ 8714c. Optional life insurance on family members

(a) * * *

* * * * * * *

[(c)(1) Optional life insurance on family members shall stop at the earlier of the employee's death, the employee's separation from the service, 12 months after discontinuance of pay, or the employee's entry on active duty or active duty for training, as provided in sections 8706(a) and 8706(c) of this title [5 USCS §§ 8706(a) and (c)] subject to provision for a 31-day temporary extension of insurance coverage and for conversion to individual policies under conditions approved by the Office.]

(c)(1) Except as otherwise provided in this subsection, the optional life insurance on family members shall stop at the earlier of the employee's separation from the service or 12 months after discontinuance of pay, subject to a provision for temporary extension of life insurance coverage and for conversion to individual policies of life insurance under conditions approved by the Office.

* * * * * * *

CHAPTER 89. HEALTH INSURANCE

* * * * * * *

§ 8901. Definitions

For the purpose of this chapter [5 USC §§ 8901 et seq.]—

(1) "employee" means—

* * * * * * *

[(E) an individual employed by the government of the District of Columbia;]

(E) an individual first employed by the government of the District of Columbia before January 1, 1987;

* * * * * * *

(10) "former spouse" means a former spouse of an employee, former employee, or annuitant—

* * * * * * *

(C)(i) who is receiving any portion of an annuity under section 8345(j) *or 8467* of this title or a survivor annuity under section 8341(h) *or 8434* of this title (or benefits similar to either of the aforementioned annuity benefits under

a retirement system for Government employees other than the Civil Service Retirement System),

(ii) as to whom a court order or decree referred to in section 8341(h) *"or 8434"* of 8345(j) *or 8467* of this title (or similar provision of law under any such retirement system other than the Civil Service Retirement System) has been issued, or for whom an election has been made under section 8339(j)(3) of this title (or similar provision of law), or

(iii) who is otherwise entitled to any annuity or any portion of an annuity as a former spouse under a retirement system for Government employees,

except that such term shall not include any such unremarried former spouse of a former employee whose marriage was dissolved after the former employee's separation from the service (other than by retirement).

* * * * * * *

§ 8905. Election of coverage

(a) * * *

(b)*(1)* An annuitant who at the time he becomes an annuitant was enrolled in a health benefits plan under this chapter [et seq.]—

[(1)**]***(A)* as an employee for a period of not less than—

[(A)**]***(i)* the 5 years of service immediately before retirement;

[(B)**]***(ii)* the full period or periods of service between the last day of the first period, as prescribed by regulations of the Office of Personnel Managment, in which he is eligible to enroll in the plan and the date on which he becomes an annuitant; or

[(C)**]***(iii)* the full period or periods of service beginning with the enrollment which became effective before January 1, 1965, and ending with the date on which he becomes an annuitant; whichever is shortest; or

[(2)**]***(B)* as a member of the family of an employee or annuitant; may continue his enrollment under the conditions of eligibility prescribed by regulations of the Office.

(2) A member of family of a deceased employee or annuitant who was enrolled in a health benefit plan under this chapter on the date of death of the employee or annuitant may continue the enrollment under the conditions of eligibility prescribed in regulations issued by the Office.

(c)(1) A former spouse may—

(A) within 60 days after the dissolution of the marriage, or

(B) in the case of a former spouse of a former employee whose marriage was dissolved after the employee's retirement, within 60 days after the dissolution of the marriage or, if later, within 60 days after an election is made under section 8339(j)(3) *or 8436(a)(1)* of this title for such former spouse by the retired employee,

enroll in an approved health benefits plan described by section 8903 of this title [5 USCS § 8903] as an individual or for self and family as provided in paragraph (2) of this subsection, subject to agreement to pay the full subscription charge of the enrollment, in-

cluding the amounts determined by the Office to be necessary for administration and reserves pursuant to section 8909(b) of this title [5 USCS § 8909(b)]. The former spouse shall submit an enrollment application and make premium payments to the agency which, at the time of divorce or annulment, employed the employee to whom the former spouse was married or, in the case of a former spouse who is receiving annuity payments under section 8341(h) *or 8434* or 8345(j) *or 8467* of this title to the Office of Personnel Management.

* * * * * * *

TITLE 26—INTERNAL REVENUE CODE

* * * * * * *

Subtitle C. Employment Taxes

* * * * * * *

§ 3121. Definitions.

(a) WAGES.—For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that such term shall not include—

* * * * * * *

(b) EMPLOYMENT.—For purposes of this chapter, the term "employment" means any service, of whatever nature, performed (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen or resident of the United States as an employee for an American employer (as defined in subsection (h)), or (C) if it is service, regardless of where or by whom performed, which is designated as employment or recognized as equivalent to employment under an agreement entered into under section 233 of the Social Security Act, except that such term shall not include—

* * * * * * *

(5) service performed in the employ of the United States or any instrumentality of the United States, if such service—

* * * * * * *

(F) service performed as a Member, Delegate, or Resident Commissioner of or to the Congress, [or]

(G) any other service in the legislative branch of the Federal Government if such service—

(i) is performed by an individual who was not subject to subchapter III of chapter 83 of title 5, United States Code, or to another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), on December 31, 1983, or

(ii) is performed by an individual who has, at any time after December 31, 1983, received a lump-sum payment under section 8342(a) of title 5, United States Code, or under the corresponding provision of the law establishing the other retirement system described in clause (i), or

(iii) is performed by an individual after such individual has otherwise ceased to be subject to subchapter III of chapter 83 of title 5, United States Code (without having an application pending for coverage under such subchapter), while performing service in the legislative branch (determined without regard to the provisions of subparagraph (B) relating to continuity of employment), for any period of time after December 31, 1983,

and for purposes of this subparagraph (G) an individual is subject to such subchapter III or to any such other retirement system at any time only if (a) such individual's pay is subject to deductions, contributions, or similar payments (concurrent with the service being performed at that time) under section 8334(a) of such title 5 or the corresponding provision of the law establishing such other system, or (in a case to which section 8332(k)(1) of such title applies) such individual is making payments of amounts equivalent to such deductions, contributions, or similar payments while on leave without pay, or (b) such individual is receiving an annuity from the Civil Service Retirement and Disability Fund, or is receiving benefits (for service as an employee) under another retirment system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services)**[;]**, *or*

(H) service performed by an individual after such individual has commenced participation in the Federal Retirement System pursuant to section 8471 of title 5, United States Code;

* * * * * * *

CHAPTER 61. INFORMATION AND RETURNS

* * * * * * *

§ 6103. Confidentiality and disclosure of returns and return information.

* * * * * * *

(1) Disclosure of returns and return information for purposes other than tax administration.

* * * * * * *

[*(7) Disclosure of return information to federal, state, and local agencies administering certain programs under the Social Security Act or the Food Stamp Act of 1977.*]

(7) Disclosure of return information to Federal, State, and local agencies administering certain programs under the Social Security Act or the Food Stamp Act of 1977 or certain civil service disability benefits programs.—

* * * * * * *

(D) PROGRAMS TO WHICH RULE APPLIES.—The programs to which this paragraph applies are:

(i) aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act;

(ii) medical assistance provided under a State plan approved under title XIX of the Social Security Act;

(iii) supplemental security income benefits provided under title XVI of the Social Security Act, and federally administered supplementary payments of the type described in section 1616(a) of such Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93–66;

(iv) any benefits provided under a State plan approved under title I, X, XIV, or XVI of the Social Security Act (as those titles apply to Puerto Rico, Guam, and the Virgin Islands);

(v) unemployment compensation provided under a State law described in section 3304 of this Code;

(vi) assistance provided under the Food Stamp Act of 1977; [and]

(vii) State-administered supplementary payments of the type described in section 1616(a) of the Social Security Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93–66 [.] *; and*

(viii) disability benefits provided under subchapter III of chapter 83 of title 5, United States Code, or subchapter V of chapter 84 of such title.

* * * * * * *

CHAPTER 76. JUDICIAL PROCEEDINGS

* * * * * * *

§ 7448. Annuities to surviving spouses and dependent children of judges.

(a) * * *

* * * * * * *

[(c) SALARY DEDUCTIONS.—There]

(c) SURVIVORS' ANNUITY FUND.—

(1) SALARY DEDUCTIONS.—There shall be deducted and withheld from the salary of each judge electing under subsection (b) a sum equal to [3 percent] *3.5 percent* of such judge's salary. The amounts so deducted and withheld from such judge's salary shall, in accordance with such procedure as may be prescribed by the Comptroller General of the United States, be deposited in the Treasury of the United States to the credit of a fund to be known as the "Tax Court judges survivors annuity fund" and said fund is appropriated for the payment of annuities, refunds, and allowances as provided by this section. Each judge electing under subsection (b) shall be deemed thereby to consent and agree to the deductions from his salary as provided in this subsection, and payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all judicial services rendered by such judge during the period covered by such payment, except the right to the benefits to which he or his survivors shall be entitled under the provisions of this section.

(2) UNFUNDED LIABILITY DEPOSITS.—

(A) IN GENERAL.—There shall also be deposited to the credit of the survivors annuity fund, in accordance with such procedures as the Comptroller General of the United States may prescribe, amounts required to reduce to zero the unfunded liability of the survivors annuity fund. Such deposits shall be taken from the fund used to pay the compensation of the judge, and shall immediately become an integrated part of the survivors annuity fund for any use required under this section.

(B) UNFUNDED LIABILITY DEFINED.—For purposes of subparagraph (A), the term "unfunded liability" means the estimated excess, determined by the Comptroller General on an annual basis, of the present value of all benefits payable from the survivors annuity fund, over the sum of—

(i) the present value of deductions to be withheld from the future basic pay of judges; plus

(ii) the balance in such fund as of the date the unfunded liability is determined.

In making any determination under this subparagraph, the Comptroller General shall use the applicable information contained in the reports filed pursuant to section 9503 of title 31, United States Code, with respect to the Tax Court judges surviors annuity plan established by this section.

(d) DEPOSITS IN SURVIVORS ANNUITY FUND.—Each judge electing under subsection (b) shall deposit, with interest at 4 percent per annum to December 31, 1947, and 3 percent per annum thereafter, compounded on December 31 of each year, to the credit of the survivors annuity fund, a sum equal to [3 percent] *3.5 percent* of his judge's salary and of his basic salary, pay, or compensation for service as a Senator, Representative, Delegate, or Resident Commissioner in Congress, and for any other civilian service within the purview of section 8332 of title 5 of the United States Code. Each such judge may elect to make such deposits in installments during the continuance of his service as a judge in such amount and under

such conditions as may be determined in each instance by the chief judge. Notwithstanding the failure of a judge to make such deposit, credit shall be allowed for the service rendered, but the annuity of the surviving spouse of such judge shall be reduced by an amount equal to 10 percent of the amount of such deposit, computed as of the date of the death of such judge, unless such surviving spouse shall elect to eliminate such service entirely from credit under subsection (n), except that no deposit shall be required from a judge for any year with respect to which deductions from his salary were actually made under the civil service retirement laws and no deposit shall be required for any honorable service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States.

* * * * * * *

(h) ENTITLEMENT TO ANNUITY. In case any judge electing under subsection (b) shall die while a judge after having rendered at least 5 years of civilian service computed as prescribed in subsection (n), for the last 5 years of which the salary deductions provided for by [subsection (c)] *subsection (c)(1)* or the deposits required by subsection (d) have actually been made or the salary deductions required by the civil service retirement laws have actually been made—

* * * * * * *

(2) if such judge is survived by a surviving spouse and a dependent child or children, there shall be paid to such surviving spouse an immediate annuity in an amount computed as provided in subsection (m), and there shall also be paid to or on behalf of each such child an immediate annuity equal to [one-half the amount of the annuity of such surviving spouse, but not to exceed $4,644 per year divided by the number of such children or $1,548 per year, whichever is lesser; or] *the lesser of:*

(A) 10 percent of the average annual salary amount determined in accordance with the provisions of subsection (m); or

(B) 20 percent of such average annual salary amount, divided by the number of children; or

(3) if such judge leaves no surviving spouse but leaves a surviving dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to [the amount of the annuity to which such surviving spouse would have been entitled under paragraph (2) of this subsection had such spouse survived, but not to exceed $5,580 per year divided by the number of such children or $1,860 per year, whichever is lesser.] *the lesser of:*

(A) 20 percent of the average annual salary amount determined in accordance with the provisions of subsection (m); or

(B) 40 percent of such average annual salary amount, divided by the number of children.

The annuity payable to a such spouse under this subsection shall be terminable upon such surviving spouse's death or remarriage *before attaining fifty-five years of age.* The annuity payable to a

child under this subsection shall be terminable upon (A) his attaining the age of 18 years, (B) his marriage, or (C) his death, whichever first occurs, except that if such child is incapable of self-support by reason of mental or physical disability his annuity shall be terminable only upon death, marriage, or recovery from such disability. In casse of the death of a surviving spouse of a judge leaving a dependent child or children of the judge surviving such spouse, the annuity of such child or children shall be recomputed and paid as provided in paragraph (3) of this subsection. In any case in which the annuity of a dependent child is terminated under this subsection, the annuities of any remaining child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived such judge.

* * * * * * *

(m) COMPUTATION OF ANNUITIES.—The annuity of the surviving spouse of a judge electing under subsection (b) shall be an amount equal to the sum of (1) **[**1¼ percent**]** *1.5 percent* of the average annual salary (whether judge's salary of compensation for other allowable service) received by such judge for judicial service (including periods in which he received retired pay under section 7447(d)) or for any other prior allowable service during the period of 3 consecutive years in which he received the largest such average annual salary, multiplied by the sum of his years of such judicial service, his years of prior allowable service as a Senator, Representative, Delegate, or Resident Commissioner in Congress, his years of prior allowable service performed as a member of the Armed Forces of the United States, and his years, not exceeding 15, of prior allowable service performed as a congressional employee (as defined in section 2107 of title 5 of the United States Code, and (2) three-fourths of 1 percent of such average annual salary multiplied by his years of any other prior allowable service **[**but such annuity shall not exceed 40 percent of such average annual salary and shall be further reduced in accordance with subsection (d), if applicable**]**, *except that such annuity shall not exceed an amount equal to 50 percent of such average annual salary, nor be less than an amount equal to 30 percent of such average annual salary, and that any amount determined in accordance with the provisions of this subsection shall be reduced to the extent required by subsection (d), if applicable.*

* * * * * * *

TITLE 28—JUDICIARY AND JUDICIAL PROCEDURE

* * * * * * *

PART I. ORGANIZATION OF COURTS

* * * * * * *

§ 376. Annuities for survivors of certain judicial officials of the United States

(a) * * *

* * * * * * *

(b) Every judicial official who files a written notification of his or her intention to come within the purview of this section, in accordance with paragraph (1) of subsection (a) of this section, shall be deemed thereby to consent and agree to having deducted and withheld from his or her salary, including any "retirement salary", a sum equal to [4.5 percent] *5 percent* of that salary. The amounts so deducted and withheld from the salary of each such judicial official shall, in accordance with such procedures as may be prescribed by the Comptroller General of the United States, be covered into the Treasury of the United States and credited to the "Judicial Survivors' Annuities Fund" established by section 3 of the Judicial Survivors' Annuities Reform Act. Such fund shall be used for the payment of annuities, refunds, and allowances as provided by this section. Payment of such salary less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all services rendered by such judicial official during the period covered by such payment, except the rights to those benefits to which such judicial official, or his or her survivors, shall be entitled under the provisions of this section.

[(c) There shall also be deposited to the credit of the "Judicial Survivors' Annuities Fund", in accordance with such procedures as may be prescribed by the Comptroller General of the United States, amounts matching those deducted and withheld in accordance with subsection (b) of this section. Such deposits shall be taken from the fund used to pay the compensation of the judicial official, and shall immediately become an integrated part of the "Judicial Survivors' Annuities Fund" for any use required under this section.]

(C) (1) There shall also be deposited to the credit of the Judicial Survivors' Annuities Fund, in accordance with such procedures as the Comptroller General of the United Sates may prescribe, amounts required to reduce to zero the unfunded liability of the Judicial Survivors' Annuities Fund. Such deposits shall be taken from the fund used to pay the compensation of the judicial official, and shall immediately become an integrated part of the Judicial Survivors' Annuities Fund for any use required under this section.

(2) For purposes of paragraph (1), the term "unfunded liability" means the estimated excess, determined by the Comptroller General on an annual basis, of the present value of all benefits payable from the Judicial Survivors' Annuities Fund, over the sum of—

(A) the present value of deductions to be withheld from the future basic pay of judicial officials; plus

(B) the balance in such fund as of the date the unfunded liability is determined.

In making any determination under this paragraph, the Comptroller General shall use the applicable information contained in the reports filed pursuant to section 9503 of title 31 with repect to the judicial survivors' annuities plan established by this section.

(d) Each judicial offical shall deposit, with interest at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter, compounded on December 31 of each year, to the credit of the "Judicial Survivors' Annuities Fund":

(1) a sum equal to [4.5 percent] *5 percent* of that salary, including "retirement salary", which he or she has received for serving in any of the offices designated in paragraph (1) of subsection (a) of this section prior to the date upon which he or she filed notice of an intention to come within the purview of this section with the Director of the Administrative Office of the United States Courts; and

(2) a sum equal to [4.5 percent] *5 percent* of basic salary, pay, or compensation which he or she has received for serving as a Senator, Representative, Delegate, or Resident Commissioner in Congress, or for serving as an "employee", as that term is defined in subsection (1) of section 8331 of title 5, prior to assuming the responsibilities of any of the offices designated in paragraph (1) of subsection (a) of this section.

The interest otherwise required by this subsection shall not be required for any period during which a judicial official was separated from all such service and was not receiving any retirement salary.

Each such judicial official may elect to make such deposits in installments, during the continuance of his or her service in those offices designated in paragraph (1) of subsection (a) of this section, in such amounts and under such conditions as may be determined in each instance by the Director of the Administrative Office of the United States Courts: *Provided,* That, in each instance in which a judicial official does elect to make such deposits in installments, the Director shall require (i) that the first installment payment made shall be in an amount no smaller than that amount necessary to cover at least the last eighteen months of prior creditable civilian service, and (ii) that at least one additional installment payment shall be made every eighteen months thereafter until the total of all such deposits have been made.

Notwithstanding the failure of any such judicial official to make all such deposits or installments payments, credit shall be allowed for the service rendered, but the annuity of that judical official's widow or widower shall be reduced by an amount equal to 10 percent of the amount of such deposits, computed as of the date of the death of such judicial official, unless such widow or widower shall elect to eliminate such service entirely from credit under subsection (k) of this section: *Provided,* That no deposit shall be required from any such judical official for any honorable active duty service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States, or for any other creditable service rendered prior to August 1, 1920.

* * * * * * *

(h) Annuities payable under this section shall be paid only in accordance with the following provisions:

(1) In any case in which a judicial official dies while in office, or while receiving "retirement salary," after having completed at least eighteen months of creditable civilian service, as com-

puted in accordance with subsection (k) of this section, for the last eighteen months of which the salary deductions provided by subsection (b) of this section or, in lieu thereof, the deposits required by subsection (d) of this section have actually been made—

* * * * * * *

(B) if such judicial official is survived by a widow or widower and a child or children, there shall be paid to such widow or widower an annuity, beginning on the day on which such judicial official died, in an amount computed as provided in subsection (l) of this section, and there shall also be paid to or on behalf of each such child an immediate annuity equal to:

[(i) $1,548: or

[(ii) $4,644, divided by the number of children; whichever is smallest;]

(i) 10 percent of the average annual salary determined under subsection (l)(1) of this section; or

(ii) 20 percent of such average annual salary, divided by the number of children; or

(C) if such judicial official leaves no surviving widow or widower, but does leave a surviving child or children, there shall be paid to or on behalf of each such child an immediate equal to:

(i) the amount of the annuity to which the judicial official's widow or widower would have been entitled under subparagraph (1)(A) of this subsection, had such widow or widower survived the judicial official, divided by the number of children; or

[(ii) $1,860; or

[(iii) $5,580, divided by the number of children;]

(ii) 20 percent of the average annual salary determined under subsection (l)(1) of this section; or

(iii) 40 percent of such average annual salary amount, divided by the number of children;

whichever is smallest.

(2) An annuity payable to a widower under subparagraphs (1)(A) or (1)(B) of this subsection shall be terminated upon his or her death or remarriage[.] *before attaining 55 years of age.*

* * * * * * *

(l) the annuity of a widow or widower of a judical official shall be an amount equal to the sum of—

(1)[1¼ percent] *1.5 percent* of the average annual salary, including retirement salary, which such judicial official received for serving in any of the offices designated in paragraph (1) of subsection (a) of this section (i) during those three years of such service in which his or her annual salary was greatest, or (ii) if such judicial official has so served less than three years, but more than eighteen months, then during the total period of such service prior to his or her death, multiplied by the total of:

(A) the number of years of creditable service tabulated in accordance with paragraph (1) of subsection (k) of this section; plus

(B) the number of years of creditable service tabulated in accordance with paragraph (2) of subsection (k) of this section; plus

(C) the number of years of creditable service tabulated in accordance with paragraph (3) of subsection (k) of this section; plus

(D) the number of years up to, but not exceeding, fifteen of creditable service tabulated in accordance with paragraph (4) of subsection (k) of this section; plus

(2) three-fourths of 1 percent of such average annual salary, multiplied by the number of years of any prior creditable service, as tabulated in accordance with subsection (k) of this section, not applied under paragraph (1) of this subsection [:]*;*

[*Provided,* That such annuity shall not exceed 40 percent of such average annual salary and shall be further reduced in accordance with subsection (d) of this section, if applicable.]

except that such annunity shall not exceed an amount equal to 50 percent of such average annual salary, nor be less than an amount equal to 30 percent of such average annual salary. Any annuity determined in accordance with the provisions of this subsection shall be reduced to the extent required by subsection (d) of this section, if applicable.

* * * * * * *

TITLE 39—POSTAL SERVICE

* * * * * * *

CHAPTER 10. EMPLOYMENT WITHIN THE POSTAL SERVICE

* * * * * * *

§ 1005. Applicability of laws relating to Federal employees

* * * * * * *

[(d) Officers and employees of the Postal Service (other than the Governors) shall be covered by chapter 83 of title 5 relating to civil service retirement. The Postal Service shall withhold from pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in such chapter. The Postal Service shall pay into the Civil Service Retirement and Disability Fund the amounts determined by the Civil Service Commission under section 8348(h) of title 5.]

(d) Officers and employees of the Postal Service (other than the Governors) shall be covered by chapter 83 and 84 of title 5 according to the provisions of such chapters. The Postal Service shall withhold from pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in or determined under such

chapter 83. The Postal Service shall pay into the Civil Service Retirement and Disability Fund the amounts specified or determined under subchapters II and V of such chapter 84. The Postal Service shall pay into the Federal Retirement Thrift Savings Fund the amounts specified in or determined under subchapter III of such chapter 84.

* * * * * * *

TITLE 42—THE PUBLIC HEALTH AND WELFARE

* * * * * * *

TITLE II. FEDERAL OLD AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

* * * * * * *

§ 410. Definitions relating to employment

For the purposes of this subchapter
(a) Employment

* * * * * * *

(5) Service performed in the employ of the United States or any instrumentality of the United States, if such service—

* * * * * * *

(F) service performed as a Member, Delegate, or Resident Commissioner of or to the Congress, [or]

(G) any other service in the legislative branch of the Federal Government if such service—

(i) is performed by an individual who was not subject to subchapter III of chapter 83 of Title 5, or to another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), on December 31, 1983, or

(ii) is performed by an individual who has, at any time after December 31, 1983, received a lump-sum payment under section 8342(a) of Title 5, or under the corresponding provision of the law establishing the other retirement system described in clause (i), or

(iii) is performed by an individual after such individual has otherwise ceased to be subject to subchapter III of chapter 83 of Title 5 (without having an application pending for coverage under such subchapter), while performing service in the legislative branch (determined without regard to the provisons of subparagraph (B) relating to continuity of employment), for any period of time after December 31, 1983,

and for purpose of this subparagraph (G) an individual is subject to such subchapter III or to any such other retirement system at any time only if (a) such individual's pay is subject to deductions, contributions, or similar payments (concurrent with the service being performed at that time) under section 8334(a) of such Title 5 or the corresponding provision of the law establishing such other system, or (in a case to which section 8332(k)(1) of such Title applies) such individual is making payments of amounts equivalent to such deductions, contributions, or similar payments while on leave without pay, or (b) such individual is receiving an annuity from the Civil Service Retirement and Disability Fund, or is receiving benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services[;], *or*

(H) service performed by an individual after such individual has commenced participation in the Federal Retirement System pursuant to section 8471 of title 5, United States Code;

TITLE II, DISTRICT OF COLUMBIA CODE

* * * * * * *

CHAPTER 15. JUDGES OF THE DISTRICT OF COLUMBIA COURTS

* * * * * * *

§ 11-1567. Survivor annuity; payments to fund.

(a) There shall be deducted and withheld from the salary (whether basic or retirement) of each judge who has elected survivor annuity a sum equal to [3 per centum] *3.5 percent* of that salary. The amounts so deducted and withheld shall, in accordance with such procedures as may be prescribed by the Commissioner [Mayor], be deposited in the fund. Every judge who elects survivor annuity shall be deemed thereby to consent and agree to the deductions from his salary as provided in this subsection, and payment less such deductions shall constitute a full and complete discharge and acquittance of all claims and demands whatever for all judicial services rendered by such judge during the period covered by such payment, except the right to the benefits to which he or his survivors shall be entitled under the survivor annuity provisions of this subchapter.

(b) If he has not previously so deposited, each judge who has elected survivor annuity shall deposit to the fund, with interest computed in accordance with section 11-1564(d)(2), a sum equal to [3 per centum] *3.5 percent* of his salary received for judicial service and of retirement salary (but excluding salary for judicial service under section 11-1565); and a sum equal to [3 per centum] *3.5*

percent of his basic salary, pay, or compensation for civilian service creditable under section 8332 of title 5, United States Code, with interest as provided in section 11–1564(d). Except to the extent that the Commissioner [Mayor] has made refund to the judge under section 11–1564(d)(6), deposit is not required with respect to that portion of the service of the judge covered by the transfer, under section 11–1564(d)(4), of his lump-sum credit to the fund. In addition, deposit may not be required for the types of service described in section 11–1564(d)(3). Each judge may elect to make deposits under this subsection in installments during the continuance of his judicial service in such amounts as may be determined in each instance by the Commissioner [Mayor]. Deposits under this subsection also may be made by the survivor of a judge.

* * * * * * *

§ 11–1568. Survivor annuity; entitlement; computation.

(a) The service of a judge for the purpose of [computing a survivor annuity] *any provision of this subchapter which refers to this subsection* includes his judicial service (and retired service for which deductions are made) and, subject to section 8334(d) of title 5, United States Code, his military and civilian service which is creditable under section 8332 of that title.

* * * * * * *

(c) If a judge who has elected a survivor annuity dies in regular active service or after having retired from such service with at least five years of allowable service under this section for which payments have been withheld or deposits made, the survivor annuity shall be paid as follows:

* * * * * * *

(2) If the judge is survived by a widow or widower and one or more children—

(A) the widow or widower shall receive an immediate annuity in the amount computed as provided in subsection (e); and

(B) there also shall be paid to or on behalf of each such child an immediate annuity equal to one-half the amount of the annuity of such widow or widower, but not to exceed [the lesser of (i) $2,700 per year divided by the number of such children or (ii) $900] *the lesser of (i) $8,424 per year divided by the number of such children or (ii) $2,808* per child per year.

(3) If the judge leaves no surviving widow or widower but leaves a surviving child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the amount of the annuity to which the widow or widower would have been entitled under paragraph (1) of this subsection had he or she survived, but not to exceed [the lesser of A) $3,240 per year divided by the number of children or (B) $1,080] *the lesser of (A) $10,110 per year divided by the number of such children or (B) $3,370 per child per year.*

For the purpose of computing, under this paragraph, the annuity of a child that commences on or after January 1, 1987, the figures

$8,424, $2,808, $10,110, and $3,370 shall be increased by the total percent increases allowed and in force with respect to retirement salaries of judges under section 11-1571(a) of this title on or after such date. An annuity payable to a widow or widower under this section shall be terminable upon death or remarriage *prior to the attainment of fifty-five years of age.* The annuity payable to a child shall be termminable upon his death or marriage or his ceasing to be a child as defined in section 11-1561 (8). In case of the death of a widow or widower of a judge leaving a child or children of the judge surviving, the annuity of such child or children shall be recomputed and paid as provided in paragraph (3) of this subsection. In any case in which the annuity of a child is terminated, the annuities of any remaining child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was terminated had not survived the judge.

* * * * * * *

[(e) The annuity of a widow or widower of a judge electing survivor annuity shall be an amount equal to the sum of—

(1) 1¼ per centum of the average annual salary received for service allowable under subsection (a) during the last three years of such service prior to death or retirement multiplied by the sum of his years of judicial service and his Member, congressional employee, and his military service allowable under subsection (a); and

(2) three-fourths of 1 per centum of such average annual salary multiplied by his years of all other civilian service allowable under subsection (a).]

(e) The annuity of a widow or widower of a judge electing survivor annuity shall be equal to—

(1) in the case of a judge who dies while in active regular service as a judge, the greater of—

(A) 60 percent of the retirement salary the judge would have been entitled to receive if the judge had retired on the day before the date of death (without regard to the age requirements prescribed in section 11-1562(b)), or

(B) 60 percent of the retirement salary the judge would have been entitled to receive if the judge had retired on the day before the date of death with 15 years of service for the purposes of this subchapter (without regard to the age requirements prescribed in section 11-1562(b)), or computed under section 11-1564; and

(2) in the case of a retired judge, 60 percent of the retirement salary payable to such judge on the day before the date of the judge's death.

* * * * * * *

Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1106; 5 U.S.C. 8331 note)

* * * * * * *

Sec. 202. It is the policy of the Government—

(1) that the amount required to be contributed to certain public retirement systems by employees and officers of the Government who are also required to pay employment taxes relating to benefits under title II of the Social Security Act for service performed after December 31, 1983, be modified until the date on which such employees and officers are covered by a new Government retirement system (the design, structure, and provisions of which have not been determined on the date of enactment of this Act) or [January 1, 1986] *January 1, 1987*, whichever is earlier;

* * * * * * *

(6) that such employees and officers who are first employed in civilian service by the Government or first take office in civilian service in the Government on or after January 1, 1984, become subject to such new Government retirement system as may be established for employees and officers of the Government on or after January 1, 1984, and before [January 1, 1986] *January 1, 1987*, with credit for service performed after December 31, 1983, by such employees and officers transferred to such new Government retirement system.

DEFINITIONS

SEC. 203. (a) For the purposes of this title—

* * * * * * *

(4) the term "new Government retirement system" means any retirement system which (A) is established for officers or employees of the Government by or pursuant to a law enacted after December 31, 1983, and before [January 1, 1986] *January 1, 1987*, and (B) takes effect on or before [January 1, 1986] *January 1, 1987*.

* * * * * * *

CONTRIBUTION ADJUSTMENTS

SEC. 204. (a) In the case of a covered employee who is participating in a covered retirement system, an employing agency shall deduct and withhold only 1.3 percent of the basic pay of such employee under—

(1) section 8334 of title 5, United States Code;

(2) section 805 of the Foreign Service Act of 1980 (22 U.S.C. 4045);

(3) section 211 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note); or

(4) any provision of any other covered retirement system which requires a participant in the system to make contributions of a portion of the basic pay of the participant;

for covered service which is performed after December 31, 1983, and before the earlier of the effective date of a new Government retirement system or [January 1, 1986] *January 1, 1987*. Deductions shall be made and withheld as provided by such provisions in the case of covered service which is performed on or after such ef-

fective date or [January 1, 1986] *January 1, 1987,* as the case may be, and is not subject to a new Government retirement system.

* * * * * * *

REIMBURSEMENT FOR CONTRIBUTION DEFICIENCY

SEC. 205. (a) For purposes of this section—

* * * * * * *

(b) At the end of each of fiscal years 1984, 1985, [and 1986] *1986, and 1987,* the appropriate agency head—

* * * * * * *

SPECIAL DEPOSIT AND OFFSET RULES RELATING TO RETIREMENT BENEFITS FOR INTERIM COVERED SERVICE

SEC. 206(a) For the purposes of this section, the term "interim covered service" means covered service to which section 204(a) applies.

(b)(1) Paragraphs (2) and (3) apply according to the provisions thereof only with respect to a covered employee who is employed by the Government on December 31, 1983.

(2)(A) Notwithstanding any other provision of law, the interim covered employee shall be considered—

(i) in determining entitlement to and computing the amount of an annuity (other than a disability or survivor annuity) commencing under a covered retirement system during the period beginning January 1, 1984, and ending on the earlier of the date a new Government retirement system takes effect or [January 1, 1986] *January 1, 1987,* by reason of the retirement of such covered employee during such period only if such covered employee makes a deposit to the credit of such covered retirement system for such covered service in an amount computed as provided in subsection (f); and

(ii) in computing a disability or survivor annuity which commences under a covered retirement system during such period and is based in any part on such interim covered service.

* * * * * * *

(c)(1) Paragraphs (2) and (3) apply according to the provisions thereof only with respect to a covered employee who was not employed by the Government on December 31, 1983.

(2) Notwithstanding any other provision of law, any annuity which commences under a covered retirement system during the period described in subsection (b)(2)(A)(i) and is based, in any part, on interim covered service shall be reduced by the portion of the amount of any benefits which is payable under title II of the Social Security Act to the annuitant and is attributable to such service, as determined under subsection (g).

(3) Notwithstanding any other provision of law, if a new Government retirement system is not established, the interim covered service of such a covered employee who retires or dies after [January 1, 1986] *January 1, 1987,* shall be considered in determining entitlement to and computing the amount of an annuity under a

covered retirement system based on the service of such covered employee only if such covered employee makes a deposit to the credit of such covered retirement system for such covered service in an amount computed as provided in subsection (f).

*   *   *   *   *   *   *

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Comparison of S. 1527 and current Civil Service Retirement System

1. BASIC ANNUITY PLAN	Current CSRS	S. 1527 as reported
A. Eligibility	Federal employees not covered by social security.	Federal employees who are covered by social security.
B. Required employee contributions	7% of total pay.	None, except for social security.
C. Vesting of retirement benefits	5 years service, provided employee does not withdraw his own contributions.	5 years service.
D. Salary base	Average of high-3 yrs salary.	Average of high-5 yrs salary.
E. Retirement benefit	1.5% x first 5 yrs. service, 1.75% x next 5 yrs. service, 2.0% x yrs. of svc. over 10; all times salary base.	0.9% x first 15 yrs. service, 1.1 x yrs. of service over 15, all times salary base.
E. Eligibility for retirement		
1. Unreduced	Age 55 & 30 years service, Age 60 & 20 years service, Age 62 & 5 years service.	Age 62 & 5 years service.
2. Reduced	No provisions.	Age 55 & 10 years service.
3. Involuntary	Age 50 & 20 yrs. service. Any age & 25 yrs. service.	Age 50 & 20 yrs. service. Any age & 25 yrs. service.
4. Deferred vested	At least 5 yrs. service, and does not withdraw employee contributions.	At least 5 yrs. service when employment terminates.

1. BASIC ANNUITY PLAN (continued)	Current CSRS	S. 1527 as reported
F. Amount of retirement benefits		
1. Unreduced	Based on accrual rate, without reduction.	Based on accrual rate, without reduction.
2. Reduced	No provisions.	(A) Age 55 & 30 yrs. service, reduced 2% for each year under age 62. (B) Age 55 & 10 yrs. service, reduced 5% for each year under age 62.
3. Involuntary	Reduced 2% for each year under age 55.	Reduced 2% for each year under age 62.
4. Deferred vested	Accrued benefit payable at age 62.	Full accrued benefit payable at age 62. Reduced benefit can be elected when former employee attains age 55 with the 10 years of service needed for early retirement, with reductions of 5% or 2% per year by which benefit commencement date precedes age 62.
G. Refunds	Option to withdraw at separation sums contributed with benefits forfeited.	No contributions, thus no refund.
H. Cost-of-living adjustments (COLAs)	Annually, 100% of rate of inflation as measured by increase in Consumer Price Index (CPI).	Before age 62: None. Ages 62-66: CPI rate minus 2 percentage points. Ages 67 & over: Full CPI rate.
I. Optional forms of benefits	Joint-&-survivor annuity, automatic if married unless jointly rejected. Annuity is reduced during annuitant's lifetime by 2.5% of 1st $3,600 and 10% of excess over $3,600. Surviving spouse gets 55% of the unreduced annuity.	1. Joint-&-survivor annuity, automatic if married unless jointly rejected. Annuity reduced 10% during annuitant's lifetime. Surviving spouse gets 50% of unreduced annuity. 2. Social security leveling option, based on actuarial equivalent. Benefits are higher at ages 55-61, lower age 62 & after.

2. THRIFT-SAVINGS PLAN	Current CSRS	S. 1527 as reported
A. Contributions (tax-deferred to the extent permitted for Sect. 401(k) plans):		
1. Paid by employee, matched by employer	N/A	Up to 5% of pay, with employer matching at $1.00 for each $1.00.
2. Voluntary employee contributions, not matched by employer	N/A	Up to 5% of pay. Unused amounts are carried forward, and may be contributed later up to 5% of pay in any year, outside the usual limit on employee contributions of 5% of pay.
B. Vesting	N/A	Employee is immediately vested for own contributions, employer contributions are vested at 20% after 1 year of service, increasing to 100% after 5th year, along with any investment gains and losses.
C. Investments		
1. Employee may elect to invest own account in:	N/A	Fund A--Government securities. Fund B--Fixed-income securities, using insurance company Guaranteed Investment Contracts (GICs) or other private-sector assets. Fund C--Equities, using an index fund (invested in proportion to a diversified common stock portfolio such as Standard & Poor's 500-Stock Index).

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2. THRIFT-SAVINGS PLAN (continued)	Current CSRS	S. 1527 as reported
C. Investments (continued)		
2. Phase-in during first ten years of private-sector investment funds:		(see table below)
D. Payout of employee retirement accounts	N/A	Employee may elect payout of vested account balance: 1. As annuity. 2. In cash (at retirement age or death). 3. As rollover to IRA (at termination of employment or death). Active employees may not withdraw funds. Program of hardship loans to employees is to be established by January 1, 1988.

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Contributions in calendar year	Percentage required in government securities: Employee	Percentage required in government securities: Employer
1986	N/A	N/A
1987	100%	100%
1988	80	100
1989	60	100
1990	40	100
1991	20	100
1992	0	100
1993	0	80
1994	0	60
1995	0	40
1996	0	20

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3. SURVIVOR BENEFITS	Current CSRS	S. 1527 as reported
A. Preretirement death benefit, spouse or former spouse.	At death of active employee with 18 months service, surviving spouse gets 55% of: (A) annuity earned at death, (B) 40% of salary base, or (C) annuity earned with service projected to age 60 at same salary base. This benefit is payable in addition to any group life insurance.	At death of married employee with 18 months of service, surviving spouse gets immediate annuity: * Amount is 50% of employee's annuity earned for service to date, with service deemed to be at least 10 years in computing this annuity, reduced based on number of years employee was below age 62 at death. Reduction per year is 2% with 30 years of service, or 5% with less than 30 years, maximum reduction of 35%. * Annuity payments stop when surviving spouse remarries before age 55 or dies. * This benefit is payable in addition to any social security, group life insurance or thrift plan death benefits.
B. Preretirement death benefit, children	Unrelated to annuity; annually adjusted dollar amount varied by number of children, and whether or not orphaned.	None from plan; benefits paid from social security.
C. Optional post-retirement death benefit, spouse or former spouse	Annuity is reduced (by 2.5% of 1st $3,600, 10% of excess) during annuitant's lifetime, surviving spouse gets annuity of 55% of employee's annuity before this reduction. Automatic if married unless jointly rejected by spouses.	Annuity is reduced by 10 percent during annuitant's lifetime, to provide surviving spouse an annuity of 50% of employee's annuity before this reduction. Automatic if married unless jointly rejected by both spouses.
D. Children	Same as for pre-retirement death benefit.	None from plan; benefits paid from social security.

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3. SURVIVOR BENEFITS (continued)	Current CSRS	S. 1527 as reported
E. Special provisions for surviving former spouses, or new spouses due to marriage after retirement.	Benefits are the same as for surviving spouses, subject to elections and deposits in certain cases.	Benefits are the same as for surviving spouses, subject to elections and deposits in certain cases.
F. Basic Federal Employee Group Life Insurance (FEGLI), for active employees who contribute at current rates	Amount is 2x annual pay up to age 35, grading down to 1x pay at ages 45 & over (rounded up to next $1,000 multiple, plus $2,000, disregarding salary above Executive Level II, with added payment at accidental death or dismemberment). At age 65, or retirement if later, reduced 2% per month until amount reaches 25 percent of pre-65 amount, unless employee pays full cost of extra protection. Newly hired employees pay level contribution covering 2/3 of lifetime cost.	No change in FEGLI.

4. DISABILITY BENEFITS	Current CSRS	S. 1527 as reported
A. Administration and eligibility	Provided from CSRS, if employee has 5 years of service for eligibility. Customarily paid after sick leave is used up.	Provided under separate Long-Term Disability (LTD) plan with third-party administrator. Disability benefits are paid first from unused sick leave, then after no further waiting period from LTD plan, if employee has 18 months of service for LTD eligibility.
B. Definition of disability	Unable to do any job for which the employee is qualified in the same agency at the same grade level.	Employee must meet either disability definition-- * Social Security definition: Unable to work in substantial gainful activity. * Occupational definition: Unable to do any job for which the employee is qualified in the same agency and commuting area, at the same grade level. During disability, total income from work may not exceed 60% of pay level for former job, and employee may be given physical exams.
C. Disability benefit amounts	Annuity earned at onset, or if greater, the lesser of: (a) 40% of salary base, or (b) annuity based on service projected to age 60 at the same salary base.	60 percent of high-5, payable to age 62, offset by 100% of any primary social security benefit payable. If employee meets only the occupational definition of disability, one year after onset of disability benefits are reduced to 40 percent of high-5, payable to age 55.
D. Cost-of-living adjustments (COLAs) during disability	Annually, 100% of inflation rate as measured by increase in Consumer Price Index (CPI).	Net benefit after offset increases at rate of increase in CPI, minus 2 percentage points.
E. Retirement benefits after disability	Disability annuity continues for life if no recovery before age 60.	During LTD benefit period-- * Employee's service continues to be credited toward basic annuity formula; * High-5 for purposes of that formula goes up at CPI increase rate minus 2 percentage points; and, * Employee may participate in thrift plan. At end of LTD benefit period-- * Benefits are converted to retirement benefits based on age and service at that time, but limited to LTD benefit being paid.

5. MISCELLANEOUS PROVISIONS	Current CSRS	S. 1527 as reported
A. Retirement ages for special groups: law enforcement officers, firefighters, air traffic controllers, and military reserve technicians	Law enforcement officers & firefighters may retire at age 50 & 20 years service. Benefit is 2.5% of high-3 times first 20 years of service, plus 2% times service beyond 20 years. Air traffic controllers may retire after 25 years, or at age 50 & 20 years, with unreduced benefits under the regular formula, but not less than 50% of high-3. Other groups have special contributions, benefits.	Law enforcement officers, firefighters and air traffic controllers may retire at age 50 with 20 years of service, or at any age with 25 years of service, and get an unreduced annuity and a supplement payable to age 62 equal to the estimated social security benefit. Military reserve technicians may retire at age 55 with 30 years of service and get an unreduced annuity. No supplement is payable. Other groups get the plan's regular benefits.
B. Treatment of non-federal employees as federal for purposes of retirement	Certain groups are included.	Newly hired employees of the D.C. government are excluded from this program. Other non-federal employees retain current coverage.
C. Transfers of current employees to new program	N/A	Current employees may elect during 1987 to join social security and the new plan-- * Credit in current program stops, but the high-3 pay continues to run. * Employee retains survivor coverage from current plan, but not disability coverage. * All service counts toward both programs' eligibility for retirement and vesting. * Employee gets credit for prior service toward eligibility for Long-Term Disability. * Social security windfall-benefit reduction and public-pension spouse offset are waived after 5 years service in new plan.
D. Effective date and transition from interim plan		Effective date is Jan.1, 1987. Participants who contributed to interim plan in 1984-86 get credit toward thrift plan for 2x these contributions plus interest.

6. OPTIONS A & B: SPECIAL PROVISIONS OF S. 1527 AS REPORTED	Option A provision	Option B provision, where different
A. Eligibility	Federal employees covered by social security who do not elect Option B when first covered by the plan.	Federal employees covered by social security who elect Option B when they are first covered by the plan.
B. Required employee contributions (in addition to medicare)	None, except for social security (OASDI).	Employee pays the difference between the 7% employee contribution for CSRS and the rates scheduled for OASDI, that is-- (see schedule below). Social security wage base is $39,600 in 1985, rising with national wage index.
C. Unreduced retirement benefits	At age 62 & 5 years service.	At age 55 & 30 years service, or age 62 & 5 years service.
D. Reduced retirement benefits	At age 55 & 30 years service, benefit reduced 2% for each year under age 62. At age 55 & 10 years service, benefit reduced 5% for each year under age 62.	At age 55 & 10 years service, benefit reduced 5% for each year under age 62.
E. Deferred vested benefits	Unreduced benefit payable at age 62. Reduced benefit can be elected when the individual attains age 55 with the service needed for early retirement (10 years or 30 years), with reductions at 5% or 2% per year under age 62.	Unreduced benefit payable when employee attains both age and service needed for unreduced retirement. Reduced benefit is available when individual attains age 55 & 10 years service, reduced 5% per year under age 62.
F. Refunds	No contributions, thus no refund.	Employees who leave and elect to withdraw their contributions with interest get the same benefits as in Option A. This affects unreduced & reduced annuities, COLAs and survivor benefits.

Option B, item B schedule:

Year	Up to Social Sec. wage base	Over Social Sec. wage base
1987	1.3 %	7.0%
1988-89	0.94%	7.0%
After 1989	0.8 %	7.0%

6. OPTIONS A & B: SPECIAL PROVISIONS OF S. 1527 AS REPORTED (continued)	Option A provision	Option B provision, where different
G. Contributions to thrift-savings plan		
1. Contributed by employee, matched by employer.	Up to 5% of pay, with employer matching at $1.00 per $1.00.	Employee contributions up to 6% of pay are matched by the employer as follows: First 1% of pay.....at $1.00 per $1.00. Next 2% of pay.......at $.50 per $1.00. Next 3% of pay.......at $.25 per $1.00.
2. Voluntary employee contributions, not matched	Up to 5% of pay. Unused amounts are carried forward, may be contributed later up to 5% of pay per year, outside the usual 10% limit on contributions.	Up to 4% of pay. Unused amounts are carried forward, may be contributed later up to 5% of pay per year, outside the usual 10% limit on contributions.
H. Cost-of-living adjustment (COLA) for retirement, survivor & disability benefits	* Retired up to age 62: None. * Retired ages 62-66, or disability & survivor cases up to age 67: CPI rate less 2 percentage points. * Age 67 & up: Full CPI rate.	* Retired up to age 62: CPI rate minus 2 percentage points. * Retired age 62 & up, or survivors & disabled at any age: Full CPI rate.
I. Basic Federal Employee Group Life Insurance (FEGLI), for active employees who contribute at current rates	No change. For active employees, amount is 2x annual pay up to age 35, grading down to 1x pay at ages 45 and over (rounded up to next higher multiple of $1,000, plus $2,000).	Covered active employees also get supplemental death benefit at government expense, payable to employee's named beneficiary. Amount is 2x annual pay (rounded up to next higher multiple of $1,000, plus $2,000) minus basic FEGLI.
J. Preretirement death benefit, spouse or former spouse	Surviving spouse annuity amount is 50% of employee's annuity earned for service to date, reduced if payable before employee's age 62 at 2% per year with 30 years service, or 5% per year with less than 30 years service, with maximum reduction of 35%.	Surviving spouse annuity amount is 50% of employee's annuity earned for service to date, without any reduction.
K. Post-retirement death benefit, spouse or former spouse	Annuity reduction of 10% continues when spouse dies before annuitant.	Annuity reduction of 10% stops at death of spouse.
L. Retirement benefits after disability	* High-5 for purposes of annuity formula goes up at CPI rate minus 2 points. * Annuity is limited to LTD benefit amount.	* High-5 for purposes of annuity formula goes up at same rate as federal employee general wage schedule. * Annuity is not limited to LTD amount.